
CHARTER OF THE CITY OF SAN DIEGO CALIFORNIA



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SAN DIEGO CITY CHARTER

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ARTICLE I

CORPORATE POWERS

SECTION 1. INCORPORATION AND CORPORATE POWERS.

The municipal corporation now existing and known as "The City of San Diego" shall continue to be a municipal corporation under the same name, with the boundaries as now established or as may hereafter be legally established. Such municipal corporation shall have perpetual succession, may use a corporate seal; may sue and defend in all courts and places, and in all matters and proceedings whatever; may own and acquire property within or without its boundaries for either governmental or proprietary, or any municipal purpose, either by succession, annexation, purchase, devise, lease, gift or condemnation, and may sell, lease, convey, exchange, manage and dispose of the same as the interests of said City may require; receive bequests, donations and gifts of all kinds of property within and without The City of San Diego in fee simple or in trust for charitable or other purposes, and do all acts necessary to carry out the purposes of such gifts, bequests and donations; may own and operate public utility systems, including the joint or sole operation and ownership of utilities for the purchase, development, and supply of water and electrical power for the use of the City and its inhabitants and others; and generally shall have all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever now or hereafter authorized to be granted to municipal corporations by the Constitution and laws of the State of California.

SECTION 2. POWERS UNDER CONSTITUTION AND GENERAL LAWS.

The City of San Diego, in addition to any of the powers now held by or that may hereafter be granted to it under the Constitution or Laws of this State, shall have the right and power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter; provided, however, that nothing herein shall be construed to prevent or restrict the City from exercising, or consenting to, and the City is hereby authorized to exercise any and all rights, powers and privileges heretofore or hereafter granted or prescribed by General Laws of the State.

SECTION 2.1 PROHIBITION ON CONSTRUCTION, OPERATION OR MAINTENANCE OF FACILITIES RELATED TO OFFSHORE DRILLING.

Neither the City Council nor any officer or employee of the City shall take any action, or permit any action to be taken, which directly or indirectly authorizes or permits the construction, operation or maintenance of any pipeline within the City for the transmission of any crude oil or natural gas taken or removed from any offshore crude oil or natural gas drilling or pumping operations within 100 nautical miles of the coastline of the County of San Diego; nor shall the City Council or any officer or employee of the City take any action, or permit any action to be taken, which directly or indirectly authorizes or permits the construction, operation or maintenance of any commercial or industrial facility within the City, including but not necessarily limited to crude oil or natural gas storage facilities, which operated directly or indirectly in support of any offshore crude oil or natural gas drilling or pumping operations within 100 nautical miles of the coastline of the County of San Diego.

(Addition voted 11-4-86; effective 12-8-86.)

SECTION 3. EXTENT OF MUNICIPAL JURISDICTION.

The municipal jurisdiction of The City of San Diego shall extend to the limits and boundaries of said City and over the tidelands and waters of the Bay of San Diego, and into the Pacific Ocean to the extent of one Marine League. In addition thereto The City of San Diego shall have the right and power to prepare and adopt such rules and regulations as it may deem necessary for the regulation, use, and government of the water system of The City of San Diego, both within and without the territorial limits of said City, and such rules and regulations having been adopted by Ordinance, shall have the force and effect of law.



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ARTICLE II

NOMINATIONS AND ELECTIONS

SECTION 4. DISTRICTS ESTABLISHED.

For the purpose of electing members of the Council the City shall be divided into eight Districts as nearly equal in registered voter population as practicable. For the municipal primary and general election in 1965, the boundaries of the eight councilmanic districts shall be established by the City Council as such Council was elected at the municipal election in 1963. Thereafter the boundaries of such districts shall be subject to alteration and change under the provisions of this Charter.

In any ordinance adopted by the Council establishing, changing or altering the boundaries of any councilmanic district the ordinance may describe the new boundaries by reference to a map on file in the office of the City Clerk; a metes and bounds description of the new boundaries need not be contained in said ordinance.

*(Amendment voted 3-10-53; effective 4-20-53.)
(Amendment voted 9-17-63; effective 2-11-64.)*

SECTION 5. REDISTRICTING.

In the event that any voting precinct which may be established at the time this Charter takes effect or which may be thereafter established is partly within two or more such districts, said precinct shall be allocated to the District in which a majority of the voters within such precinct resides, and said district boundaries shall be changed accordingly by an ordinance of the Council. The City shall be redistricted by ordinance for the purpose of maintaining approximate equality of registered voting population, at least once in every ten years, but shall not be redistricted within four years after any such redistricting.

Any territory hereafter annexed to or consolidated with The City of San Diego shall at the time of such annexation or consolidation be added to an adjacent District or Districts by an ordinance of the Council, provided, that if any territory annexed or consolidated at any one time shall contain qualified voters sufficient to upset the approximate equality of the established districts, the Council shall at least sixty days before an election after such annexation or consolidation redistrict the City regardless of the time limitation of four years heretofore mentioned.

In any redistricting, the districts shall be comprised

of contiguous territory and made as equal in registered voters as shown by the registration records, and as geographically compact as possible, and the districts so formed shall, as far as possible, be bounded by natural boundaries, by street lines and/or by City boundary lines.

SECTION 6. QUALIFIED ELECTORS.

The qualifications of an elector at any election held in the City under the provisions of this Charter shall be the same as those prescribed by the general law of the State for the qualification of electors at General State Elections. No person shall be eligible to vote at such City election until he has conformed to the general State law governing the registration of voters.

SECTION 7. ELECTIVE OFFICERS RESIDENCY REQUIREMENT.

An elective officer of the City shall be a resident and elector of the City.

In addition, every Council member shall be an actual resident and elector of the district from which the Council member is nominated. Any Council member who moves from the district of which the Council member was a resident at the time of taking office forfeits the office, but no Council member shall forfeit the office as a result of redistricting.

The Council shall establish by ordinance minimum length of residency requirements for candidacy to elective office, whether by appointment or election.

*(Amendment voted 9-17-63; effective 2-11-64.)
(Amendment voted 11-4-69; effective 1-29-70.)
(Amendment voted 11-6-79; effective 12-17-79.)*

SECTION 8. ELECTION CODE.

Within ninety (90) days after this amendment has been ratified by the State Legislature the Council shall adopt an election code ordinance, providing an adequate and complete procedure to govern municipal elections, including the nomination of candidates for all elective offices. All elections provided for by this charter, whether for choice of officers or submission of questions to the voters, shall be conducted in the manner prescribed by said election code ordinance.

(Amendment voted 4-22-41; effective 5-8-41.)

SECTION 9. NOMINATIONS.

Nominations of candidates for all elective offices

shall be made in the manner prescribed by the election code ordinance provided for in Section 8 of this article.

(Amendment voted 4-22-41; effective 5-8-41.)

SECTION 10. ELECTIONS.

Elective officers of the City shall be nominated and elected by all of the electors of the City except that City Council members other than the Mayor shall be nominated and elected by the electors of the district for which elective office they are a candidate.

The regular municipal primary election shall be held on the third Tuesday in September in each odd-numbered year, and the general municipal election shall be held on the first Tuesday after the first Monday in November of the same year, or, if either of these days falls on a legal holiday, then the election shall be held on the next succeeding day which is not a legal holiday; provided, however, that commencing with the year 1984 the elections to the offices of Mayor and City Attorney shall be held every four (4) years. The municipal primary election for these offices shall be held on the same date in each election year as the California State primary election, and the general municipal election for these offices shall be held on the same day as the California State general election for that year. All other municipal elections which may be held under this charter shall be known as special municipal elections.

All elective officers of the City shall be nominated at the municipal primary election. In the event one candidate receives the majority of votes cast for all candidates for nomination to a particular elective office, the candidate so receiving such majority of votes shall be deemed to be and declared by the Council to be elected to such office. In the event no candidate receives a majority of votes cast as aforesaid, the two candidates receiving the highest number of votes for a particular elective office at said primary shall be the candidates, and only candidates, for such office and the names of only those two candidates shall be printed upon the ballots to be used at the general municipal election.

At the general municipal election held for the purpose of electing Council members other than the Mayor the electors of each Council district shall select from among the candidates chosen at the primary election in that district one candidate for the office of the Council member whose term expires the succeeding December. At the general municipal election held for the purpose of electing any other elective officer there shall be chosen by all of the electors of the whole City from among the candidates chosen at the primary one candidate to succeed any other elective officer whose term expires in

December succeeding the election.

After the result of an election for any office is declared, or when an appointment is made, the City Clerk, under his hand and official seal, shall issue a certificate therefor, and shall deliver the same immediately to the person elected or appointed, and such person must within ten days after receiving such certificate file his official bond, if one be required for his office, and take and subscribe to the oath of office required of him by this Charter, which oath must be filed with the City Clerk.

(Amendment voted 4-22-41; effective 5-8-41.)

(Amendment voted 6-5-56; effective 1-10-57.)

(Amendment voted 11-6-62; effective 1-21-63.)

(Amendment voted 11-4-75; effective 12-1-75.)

(Amendment voted 11-8-88;)

ARTICLE III**LEGISLATIVE POWER****SECTION 11. LEGISLATIVE POWER.**

All legislative powers of the City shall be vested, subject to the terms of this Charter and of the Constitution of the State of California, in the Council, except such legislative powers as are reserved to the people by the Charter and the Constitution of the State.

SECTION 11.1 LEGISLATIVE POWER – NONDELEGABLE

The same prohibition against delegation of the legislative power which is imposed on the State Legislature by Article XI, Section 11a of the Constitution of the State of California shall apply to the City Council of The City of San Diego, so that its members shall not delegate legislative power or responsibility which they were elected to exercise in the adoption of any ordinance or resolution which raises or spends public monies, including but not limited to the City's annual budget ordinance or any part thereof, and the annual ordinance setting compensation for City employees, or any ordinance or resolution setting public policy.

The City Council shall annually adopt an ordinance establishing salaries for all City employees. The City Council shall adopt this ordinance no later than May 30 of each year after considering all relevant evidence including but not limited to the needs of the citizens of the City of San Diego for municipal services, the ability of the citizens to pay for those services, local economic conditions and other relevant factors as the Council deems appropriate. The City Council shall give priority in the funding of municipal services to the need of the citizens for police protection in considering adoption of this salary ordinance and the annual budget ordinance.

The prohibition imposed by this section against unlawful delegation of the legislative responsibility to set compensation for city employees shall extend to any scheme or formula which seeks to fix the compensation of City of San Diego employees at the level of compensation paid to employees of any other public agency whose governing board is not elected by and not accountable to the people of the City of San Diego. This prohibition shall also extend to any scheme or formula which seeks to fix, establish, or adjust the compensation of City of San Diego employees at the level of the largest cities in California or the State of California.

*(Addition voted 6-3-80; effective 7-16-80)
(Amendment voted 11-4-80; effective 12-31-80.)
(Amendment voted 6-3-86; effective 9-8-86.)*

SECTION 11.2 LEGISLATIVE POWER – MEMORANDUM OF UNDERSTANDING.

Notwithstanding any provisions of this Charter to the contrary, nothing in the Charter shall be construed to preclude the Council from entering into a multiple year memorandum of understanding with any recognized City employee organization concerning wages, hours and other terms and conditions of employment if, in the prudent exercise of legislative discretion as provided in this Charter, the Council determines it is in the best interests of the City to do so; and further provided that said exercise of legislative discretion is expressed affirmatively by a two-thirds vote of the entire Council.

(Addition voted 6-3-86; effective 9-8-86.)

SECTION 12. THE COUNCIL.

The Council shall be composed of nine (9) Council members, including the Mayor, and shall be the legislative body of the City, each of the members of which including the Mayor, shall have the right to vote upon all questions before it.

At the municipal primary and general election in 1979, a Mayor shall be chosen by the electors for a term of five (5) years. A Mayor shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. The Mayor shall hold office for the term prescribed from and after 10 a.m. the first Monday after the first day of December next succeeding his election and until his successor is elected and qualified.

Council members, other than the Mayor, shall be elected at either the municipal primary or the general municipal election held in the odd-numbered years and, except as hereinafter provided, shall hold office for the term of four (4) years from and after 10 a.m. the first Monday after the first day of December next succeeding their election and until their successors are elected and qualified. Upon any redistricting pursuant to the provisions of this Charter, incumbent Council members will continue to represent the district in which they reside, unless as a result of such redistricting more than one incumbent Council member resides within any one district, in which case the City Council may determine by lot which Council member shall represent each district. At the next municipal primary and general elections following a redistricting, Council members shall be elected from those districts not

represented and from those districts represented by incumbent Council members whose terms expire as of the general election in said year. If as a result of any redistricting more than a simple majority of the City Council as redistricted shall be elected at either the municipal primary or general election next following any such redistricting, the City Council prior to any such election shall designate one or more new districts for which the initial councilmanic term shall be two (2) years in order to retain staggered terms for Council members.

Any vacancy occurring in the Council shall be filled from the District in which the vacancy occurs by appointment by the remaining Council members; but in the event that said remaining Council members fail to fill such vacancy by appointment within thirty (30) days after the vacancy occurs, they must immediately cause an election to be held to fill such vacancy; provided, however, that any person appointed to fill such vacancy shall hold office only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term.

It is the duty of the Council members to attend all Council meetings. The Council shall vacate the seat of any Council member who is absent from eight (8) consecutive meetings or fifty percent (50%) of any scheduled meetings within a month unless the absence thereof is excused by resolution of the Council.

Council members, including the Mayor, shall devote full time to the duties of their office and not engage in any outside employment, trade, business or profession which interferes or conflicts with those duties.

No Council members shall be eligible during the term for which he was appointed or elected to hold any other office or employment with the City, except as Mayor or City Attorney and as a member of any Board, Commission or Committee thereof, of which he is constituted such a member by general law or by this Charter.

*(Amendment voted 11-8-49; effective 12-20-49.)
 (Amendment voted 6-5-56; effective 1-10-57.)
 (Amendment voted 11-6-62; effective 1-21-63.)
 (Amendment voted 9-17-63; effective 2-11-64.)
 (Amendment voted 11-4-69; effective 1-29-70.)
 (Amendment voted 11-5-74; effective 12-1-75.)
 (Amendment voted 11-4-75; effective 12-1-75.)
 (Amendment voted 11-6-79; effective 12-17-79.)
 (Amendment voted 11-8-88;)*

SECTION 12.1. COUNCILMANIC SALARIES.

On or before February 15 of every even year, the

Salary Setting Commission shall recommend to the Council the enactment of an ordinance establishing the salary of members of the Council for the period commencing July 1 of that even year and ending two years thereafter. The Council may adopt the salaries by ordinance as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount. The ordinance shall be subject to the referendum provisions of this Charter and upon the filing of a sufficient petition, the ordinance shall not become effective and shall be repealed by the Council or shall forthwith be submitted to a vote of the people at the next general statewide election.

(Addition voted 11-6-73; effective 12-7-73.)

SECTION 13. MEETINGS OF THE COUNCIL.

The Council shall provide by ordinance for the time and place of holding its meetings; provided, however, that there shall be at least one regular meeting in each week. Any regular meeting may be adjourned to a date and hour certain, and such adjourned meeting shall be a regular meeting for all purposes. All legislative sessions of the Council, whether regular or special shall be open to the public.

All legislative action shall be by ordinance except where otherwise required by the Constitution or laws of the State of California. The Council shall keep a journal of its proceedings which shall be a public record. On the passage of every ordinance the vote shall be taken by yeas and nays and entered upon the journal and no ordinance shall be passed without concurrence of a majority of the members elected to the Council. The proceedings of the Council shall be public and citizens shall have a reasonable opportunity to be heard. The first meeting of the Council shall be held at ten o'clock A.M. on the first Monday after the first day in December following its election.

All subsequent meetings shall be held pursuant to adjournment, or in accordance with a rule adopted by the Council which may be amended at any time. Special meetings shall be held on the call of the Mayor or on the written request of any three Councilmen, upon twelve hours' notice to each member, to be served personally by written notice; provided, however, that such notice may be waived by the written consent of all the Councilmen.

(Amendment voted 11-6-62; effective 1-21-63.)

SECTION 14. COUNCIL RULES.

The Council shall be the judge of the election and qualification of its members, and in such cases, shall have power to subpoena witnesses and compel the

production of all pertinent books, records and papers; but the decision of the Council in any such case shall be subject to review by the courts. The Council shall determine its own rules and order of business. It shall have power to compel the attendance of absent members, and may punish its members for disorderly behavior after notification of the charge and opportunity to be heard in defense.

SECTION 15. QUORUM.

A majority of the members elected to the Council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. Except as otherwise provided herein the affirmative vote of a majority of the members elected to the Council shall be necessary to adopt any ordinance, resolution, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct or in which his own personal interests are involved.

SECTION 16. INTRODUCTION AND PASSAGE OF ORDINANCES AND RESOLUTIONS.

Ordinances shall be introduced in the Council only in written or printed form. All ordinances, except annual appropriation ordinances and ordinances codifying or rearranging existing ordinances, shall be confined to one subject, and the subject or subjects of all ordinances shall be clearly expressed in the title. Ordinances making the annual tax levy, the annual appropriation ordinance, any ordinance calling or relating to elections, ordinances recommended by the City Manager or other independent department heads transferring or appropriating moneys already appropriated by the annual appropriation ordinance, ordinances establishing or changing the grade of a public highway, and emergency ordinances as defined by Section 17 of this Charter, may be passed by the Council on the day of their introduction. Other ordinances, however, shall be passed only after twelve (12) calendar days have elapsed between the day of their introduction and the day of their final passage. Each ordinance shall be read in full prior to the final passage of such ordinance, unless such reading shall be dispensed with by a vote of not less than a majority of the members elected to the Council, and not then unless there shall have been available for the consideration of each member of the Council and the public prior to the day of its final passage a written or printed copy of said ordinance. The yeas and nays shall be taken upon the passage of all ordinances and

entered upon the journal of the proceedings of the Council. The yeas and nays shall be taken and entered upon the passage of all resolutions receiving a split vote, or upon the request of two or more members of the Council. The enacting clause of ordinances passed by the Council shall be "Be it ordained by the Council of The City of San Diego." The enacting clause of ordinances submitted by the initiative shall be "Be it ordained by the People of The City of San Diego."

(Amendment voted 3-10-53; effective 4-20-53.)

(Amendment voted 9-17-63; effective 2-11-64.)

(Amendment voted 11-4-69; effective 1-29-70.)

(Amendment voted 11-4-75; effective 12-1-75.)

SECTION 17. WHEN ORDINANCES AND RESOLUTIONS TAKE EFFECT. EMERGENCY MEASURES.

Ordinances making the annual tax levy, the annual appropriation ordinances, ordinances calling or relating to elections, and emergency measures, shall take effect at the time indicated therein. All other ordinances passed by the Council shall take effect at the time indicated therein, but not less than thirty days from the date of their passage. Ordinances adopted by vote of the electors shall take effect at the time indicated therein, or, if no time be specified, then thirty days after their adoption. An emergency measure is an ordinance to provide for the immediate preservation of the public peace, property, health, or safety, in which the emergency claimed is set forth and defined in the preamble thereto. The affirmative vote of at least two-thirds of the members elected to the Council shall be required to pass any ordinance as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an emergency by the Council except as defined in this section, and it is the intention of this Charter that compliance with such definition shall be strictly construed by the courts.

Resolutions shall become effective immediately upon their passage, unless otherwise stated therein.

(Amendment voted 4-22-41; effective 5-8-41.)

(Amendment voted 9-17-63; effective 2-11-64.)

SECTION 18. AUTHENTICATION AND PUBLICATION OF ORDINANCES AND RESOLUTIONS.

Upon its final passage each ordinance or resolution shall be authenticated by the signatures of the Mayor and the City Clerk and shall be recorded in a book kept for that purpose. Within fifteen days after

final passage the title and number of each ordinance or resolution of a general nature, together with a digest thereof prepared by the City Attorney, shall be published at least once in such manner as may be provided by this Charter or by ordinance. The publication shall be accompanied by the notice that the full text of the ordinance or resolution is available for perusal in the office of the City Clerk.

*(Amendment voted 11-5-74; effective 12-1-75.)
(Amendment voted 11-7-78; effective 1-12-79.)*

SECTION 19. EFFECT OF OTHER ORDINANCES.

All ordinances and resolutions in force at the time this Charter takes effect, not inconsistent with its provisions, shall continue in force until amended or repealed.

SECTION 20. CODIFICATION OF ORDINANCES.

The Council may by ordinance codify all of the ordinances of a general nature of the City into a Municipal Code. When so codified such Municipal Code and all sections thereof shall be admissible in all courts as prima facie evidence of the due passage and publication of the ordinances as codified.

(Amendment voted 3-10-53; effective 4-20-53.)

SECTION 21. COURTS.

(Repeal voted 3-10-53; effective 4-20-53.)

SECTION 22. INTERFERENCE BY INDIVIDUAL MEMBERS OF COUNCIL WITH ADMINISTRATIVE SERVICE PROHIBITED.

(a) No member of the Council shall directly or indirectly by suggestion or otherwise attempt to influence or coerce the City Manager or other officer appointed or confirmed by the Council in the making of any appointment to, or removal from, any city office or employment, or the purchase of any supplies, or discuss directly or indirectly with any candidate for City Manager the matter of appointments to City Offices or employment, or attempt to exact any promises from such candidate relative to any such appointments.

(b) Except for the purpose of inquiry, the Council and its members shall deal with that part of the administrative service for which the City Manager is responsible solely through the City Manager or his designated representative and not through his sub-

ordinates.

(c) A violation of the provisions of this section by any member of the Council shall constitute a misdemeanor for which the offending member may be removed from office by the Council or for which the offending member may be tried by any court of competent jurisdiction and if found guilty the sentence imposed shall include removal from office.

(Amendment voted 9-17-63; effective 2-11-64.)

SECTION 23. INITIATIVE, REFERENDUM AND RECALL.

The right to recall municipal officers and the powers of the initiative and referendum are hereby reserved to the people of the City. Ordinances may be initiated; and referendum may be exercised on any ordinance passed by the Council except an ordinance which by the provisions of this charter takes effect immediately upon its passage; and any elective officer may be recalled from office. The Council shall include in the election code ordinance required to be adopted by Section 8, Article II, of this charter, an expeditious and complete procedure for the exercise by the people of the initiative, referendum and recall, including forms of petitions; provided that the number of signatures necessary on petitions for the initiation of an ordinance for the consideration of the Council shall be three percent of the registered voters of the City at the last general City election; that for the direct submission of a measure to the people it shall require a petition signed by ten per cent of the registered voters of the City at the last general City election; that for a referendum upon an ordinance passed by the Council it shall require a petition signed by five per cent of the registered voters of the City at the last general election; and that for the recall of an elected officer who is elected by all of the electors of the City, it shall require a petition signed by fifteen per cent of the registered voters of the City at the last general City election; and that for the recall of a Council member other than the Mayor it shall require a petition signed by fifteen per cent of the registered voters of the Councilmanic District at the last general City election.

(Amendment voted 4-22-41; effective 5-8-41.)

(Amendment voted 11-8-88;)

ARTICLE IV

THE MAYOR

SECTION 24. MAYOR.

The Mayor shall preside at the meetings of the Council and perform such other duties as may be prescribed by this Charter or as may be imposed by the Council, consistent with the duties of his office. He shall have no power of veto, but shall have a vote as a member of the Council. He shall be recognized as the official head of the City for all ceremonial purposes, by the courts for purpose of serving civil process, for the signing of all legal instruments and documents, and by the Governor for military purposes. On or before the 15th day of January of each year, he shall communicate by message to the City Council a statement of the conditions and affairs of the City, and make recommendations on such matters as he may deem expedient and proper. In time of public danger or emergency, he may, with the consent of the Council, take command of the police, maintain order and enforce the law.

The rate of pay of the Mayor shall be \$12,000.00 per year.

In the event of a vacancy occurring in the office of the Mayor, existing by reason of any cause, the Council shall have authority to fill such vacancy, provided, however, that if the Council shall fail to fill such vacancy by appointment within thirty (30) days after the vacancy, the Council must immediately cause an election to be held to fill such vacancy. Any person appointed to fill such vacancy, shall hold office only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term.

*(Amendment voted 11-6-56; effective 1-10-57.)
(Amendment voted 9-17-63; effective 2-11-64.)*

SECTION 24.1. MAYOR'S SALARY.

On or before February 15 of every even year, the Salary Setting Commission shall recommend to the Council the enactment of an ordinance establishing the Mayor's salary for the period commencing July 1 of that even year and ending two years thereafter. The Council shall adopt the salary by ordinance, as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount. The ordinance shall be subject to the referendum provisions of this Charter and upon the filing of a sufficient petition, the ordinance shall not become effective and shall be repealed by the Council or shall

forthwith be submitted to a vote of the people at the next general statewide election.

(Addition voted 11-6-73; effective 12-7-73.)

SECTION 25. DEPUTY MAYOR.

The Council shall annually in the month of December select one of its members who shall be the Deputy Mayor. The Deputy Mayor shall perform all the duties of the Mayor as prescribed by this Charter or by ordinance when the Mayor is absent or unable to perform his duties.

(Amendment voted 11-6-62; effective 1-21-63.)

(Amendment voted 9-17-63; effective 2-11-64.)

ARTICLE V**EXECUTIVE AND ADMINISTRATIVE SERVICE****SECTION 26. ADMINISTRATIVE CODE.**

The existing Departments, Divisions and Boards and existing Offices of the City Government are hereby continued unless changed by the provisions of this Charter or by ordinance of the Council. The Council shall by ordinance, by majority vote, adopt an administrative code providing for the detailed powers and duties of the administrative offices and departments of the City Government, based upon the provisions of this Charter. Thereafter, except as established by the provisions of this Charter, the Council may change, abolish, combine, and rearrange the departments, divisions and boards of the City Government provided for in said administrative code, but such ordinance creating, combining, abolishing or decreasing the powers of any department, division or board shall require a vote of two-thirds of the members elected to the Council. The Council may by ordinance, if authorized so to do by the general law of the State, provide that any function of the City may be performed by the County or that any function of the County may be performed by the City, provided the respective legislative bodies authorize and approve such transfer and assumption of function. There may also be established a combined City and County district for the performance of any function.

(Amendment voted 9-17-63; effective 2-11-64.)

(Amendment voted 11-8-77; effective 1-20-78.)

SECTION 26.1. PUBLIC SERVICES REQUIRED.

It shall be the obligation and responsibility of The City of San Diego to provide public works services, water services, building inspection services, public health services, park and recreation services, library services, and such other services and programs as may be desired, under such terms and conditions as may be authorized by the Council by ordinance.

(Addition voted 9-17-63; effective 2-11-64.)

SECTION 27. THE CITY MANAGER.

The Council shall elect a Manager under this Charter, who shall be the chief administrative officer of the City. The Manager shall be chosen by the Council solely on the basis of his proven administrative qualifications. The Manager need not, when elected, be a

resident of the City or State, but must be a citizen of the United States. He shall, upon his election, immediately become a resident of the City. No member of the Council shall, during the time for which he was elected, or for one (1) year thereafter, be eligible to hold the position of Manager. The Manager shall be elected for an indefinite term, but may be removed at the pleasure of the Council; provided, however, that the Manager shall not be removed unless a majority of the members of the Council shall vote in favor of such removal. Before the Manager may be removed he shall, if he shall so demand, be given a written statement of the reasons alleged for his removal and the right to be heard publicly thereon at a meeting of the Council prior to the final vote on the question of his removal, but pending and during such hearing the Council may suspend him from office. At least two weeks shall be given the Manager between notice and hearing for the preparation of his answer to the reasons for removal. The action of the Council in suspending or removing the Manager shall be final and conclusive on everyone, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council. He shall receive a salary to be fixed in the annual appropriation ordinance. The salary set in the appropriation ordinance shall not be reduced while the Manager holds office, but may be subject to increase by the Council at its discretion. The Manager shall designate one of his subordinates as Assistant Manager, who shall serve as Manager in case of the absence or disability of the Manager.

In the event of a vacancy in the office of City Manager, the Council shall fill the same within sixty (60) days after the vacancy occurs; provided, however, that it shall require the affirmative vote of a majority of the members of the Council to elect a person to the office of Manager.

(Amendment voted 12-19-33; effective 1-18-35.)

(Amendment voted 9-17-63; effective 2-11-64.)

SECTION 28. DUTIES OF THE MANAGER.

It shall be the duty of the Manager to supervise the administration of the affairs of the City except as otherwise specifically provided in this Charter; to make such recommendation to the Council concerning the affairs of the City as may seem to him desirable; to keep the Council advised of the financial condition and future needs of the City; to prepare and submit to the Council the annual budget estimate and such reports as may be required by that body, including an annual report of all the Departments of the City; to see that the ordinances of the City and the laws of the State are enforced; and to perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council. Except as otherwise provided in this

Charter, all other administrative powers conferred by the laws of the State upon any municipal official shall be exercised by the Manager or persons designated by him. He shall assume the position of Director of any Department under his control for which a Director has not been appointed. The Directors, or heads of the administrative Departments under the Manager shall be immediately responsible to him for the efficient administration of their respective Departments. The Manager may set aside any action taken by a Director or Department subordinate responsible to him, and may supersede him in authority in the functions of his office or employment. Where no provision has been made by ordinance authorizing a subordinate official to act as departmental head in case of a vacancy, the Manager may designate an interim acting head or perform personally the functions of the office. The Manager, as Chief Budget Officer of the City, shall be responsible for planning the activities of the City government and for adjusting such activities to the finances available. To this end he shall prepare annually a complete financial plan for the ensuing year and shall be responsible for the administration of such a plan when adopted by the Council. He shall be charged with the bringing together of estimates covering the financial needs of the City, with the checking of these estimates against the information relative to past expenditures and income, with the preparation of the budget document and supporting schedules and with the presentation of the budget to the Council. He shall have the power to employ experts, or consultants to perform work or give advice connected with the Departments of the City when such work or advice is necessary in connection therewith. If the cost of hiring said expert or consultant exceeds a sum to be established by ordinance of the City Council, no such expert or consultant shall be hired without approval of the Council. The Council shall provide sufficient funds in the annual appropriation ordinance or by supplemental appropriation ordinances for such purposes and shall charge such additional services against the appropriation of the respective Departments.

The Manager shall execute all contracts for the Departments under his control. He shall approve all requisitions and vouchers for said Departments in person or through such assistants as he may designate for the purpose.

The Manager may prescribe such general rules and regulations as he may deem necessary or expedient for the general conduct of the administrative Departments. The Director of each Department shall in like manner prescribe such rules and regulations as may be deemed necessary and expedient for the proper conduct of each Department, not inconsistent with the general rules and regulations prescribed by the Manager.

In order to expedite the work of any department or

to adequately administer an increase in the duties which may devolve on any Department or to cope with periodic or seasonal changes, the Manager, subject to Civil Service regulations, is empowered to transfer employees temporarily from one Department to perform similar duties in another Department. Likewise each Department head shall have power to transfer employees from one Division to another within his Department.

The Manager may direct any Department or Division to perform work for any other Department or Division. Such powers to transfer employees or to direct the performance of work shall not apply to the Police or Fire Departments.

During January of each year the Manager shall present to the Council an annual report of the City's affairs for the previous fiscal year.

In case of general conflagration, rioting, flood, or other emergency menacing life and property, the Manager shall marshal all the forces of the different Departments of the City for the maintenance of the general security, and shall have the power to depose or otherwise employ such other persons as he may consider necessary for the purpose of protecting the City and its residents. The Council may, however, in any such emergencies authorize the Mayor to take command of the police, maintain order and enforce the law.

And in such authorized emergencies the Manager shall be subordinate to and shall carry out such duties as may be assigned to him by the Mayor.

(Amendment voted 11-2-76; effective 1-12-77.)

SECTION 29. RESPONSIBILITY OF MANAGER-POWERS OF APPOINTMENT AND REMOVAL.

The Manager shall be responsible to the Council for the proper administration of all affairs of the City placed in his charge, and to that end, subject to the Civil Service provisions of this Charter and except as otherwise provided herein, he shall have the power to appoint and remove all officers and employees in the administrative service of the City under his control; but the Manager may authorize the head of a Department or officer responsible to him to appoint and remove subordinates in such Department or office. Appointments made by, or under the authority of, the Manager, shall be on the basis of administrative ability and of the training and experience of such appointees in the work which they are to perform. All such appointments shall be without definite term unless for temporary service not to exceed sixty days. No person directly related to the City Manager by blood or marriage shall be eligible for

employment unless such relative was in the employ of the City at the time of the appointment of the City Manager.

(Amendment voted 9-17-63; effective 2-11-64.)

SECTION 30. REMOVAL OF UNCLASSIFIED OFFICERS AND EMPLOYEES.

Officers and employees in the unclassified service appointed by the Manager or other appointing authority not under control of the Manager may be removed by such appointing authority at any time.

Appropriate rules and regulations shall be promulgated to establish procedures as may be necessary by which the dismissal provided for in this article shall be processed and effectuated.

Nothing contained herein shall be construed as in any way limiting the authority and power of the Manager or such other appointing authority not under the control of the Manager to remove any such unclassified officer or employee appointed or employed by them and any order effecting said removal shall be final and conclusive.

(Amendment voted 11-8-77; effective 1-20-78.)

SECTION 31. POLITICAL ACTIVITIES.

(a) No officer or employee of the City, except elected officers and unsalaried members of commissions, shall during regular hours of employment take an active part opposing or supporting any candidates in any City of San Diego political campaign or make contributions thereto in behalf of any candidates, nor shall such person seek signatures to any petition seeking to advance the candidacy of any person for any municipal office. Nothing in this section shall be construed to prevent any officer or employee, whether Classified or Unclassified, from seeking election or appointment to public office or from being active in State or Federal political campaigns, in any bond issue campaign including municipal bond issues, or from being active in local political campaigns.

(b) Every municipal employee shall prohibit the entry into any place under his control occupied for any purpose of the municipal government, of any person for the purpose of therein making, collecting, receiving, or giving notice of any political assessment, subscription, or contribution.

(Amendment voted 9-17-63; effective 2-11-64.)

(Amendment voted 11-6-79; effective 12-17-79.)

SECTION 32. RIGHT OF MANAGER AND

OTHER OFFICERS IN COUNCIL.

The Manager and such other officers of the City as may be designated by a vote of the Council may attend all meetings of the Council but shall have no vote therein. The Manager or other officer so selected shall have the right to take part in discussions or matters properly before the Council relating to his office or may participate in discussions in such Council meetings when requested so to do by a member of the Council or a committee thereof.

SECTION 33. MANAGER'S CONTROL DEPARTMENT.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 34. BUDGET OFFICER.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 35. PURCHASING AGENT.

The Purchasing Agent shall make all purchases of supplies, materials, equipment, and insurance required by the various Departments or offices of the City, except as may be otherwise provided by the Council or this Charter. He shall prepare in consultation with the administrative officers of the City standard specifications for all supplies, materials, equipment, and insurance necessary for use by the various Departments or offices of the City.

In purchasing any supplies, materials, equipment and insurance required by the various Departments or offices of the City, if the cost of said supplies, materials, equipment and insurance exceeds a sum to be established by ordinance of the City Council, no such purchase shall be made without advertising for sealed proposals therefor. Notices calling for such sealed proposals shall be published for one day in the official newspaper of the City, and a contract let for such purpose only after the expiration of ten days following said advertising. If the cost of the said supplies, materials, equipment and insurance required by said City falls within a dollar range also established by ordinance of the City Council, the said purchase may be made by said Purchasing Agent without advertising for sealed proposals, but not until said Purchasing Agent has secured competitive prices from merchants or other persons interested in making the sale to said City and not until the Purchasing Agent has been authorized by the Council to make such purchase. Purchases of supplies, materials, equipment and insurance required by the various Departments or offices of the City which do not exceed in cost a sum established by ordinance of the City Council may be made by the Purchasing

Agent directly upon the request of the department interested.

The Council shall by ordinance provide for the sale, exchange or other disposal by the Purchasing Agent of any surplus, used, obsolete or depreciated personal property belonging to the City.

The Council by resolution may order the purchase without advertising for bids of surplus commodities from the United States of America, or any agency thereof, or from any other public corporation, state or municipal, or any agency thereof. The Council may authorize the Purchasing Agent to participate in joint and cooperative purchasing with any other public corporation, state or municipal, or agencies thereof. The Council may also authorize said Purchasing Agent to sell to any other public corporation, state or municipal, any supplies, material and equipment which said City may have been able to purchase in quantity at a reduced price.

Supplies shall be furnished upon requisition either from the stores under the control of the Purchasing Agent or by purchase, and whenever so purchased shall be paid for by the Department or office furnished therewith. It shall be the duty of the Purchasing Agent to inspect or cause to be inspected all purchases, and reject any of those which are not up to the standard specifications provided therefor, and he shall not approve any bid or voucher for articles which are not in conformity with specifications, or which are at variance with any contract. The Purchasing Agent shall not furnish supplies to any Department or office unless there be to the credit thereof an available unencumbered balance sufficient to pay for such supplies.

Materials, supplies or equipment not needed by a Department or office, but necessary to another Department or office, may be transferred by the Purchasing Agent and a proper record made of the transaction. He shall have charge of such store-rooms and warehouses of the City as the Manager may provide or the Council by ordinance may authorize. The Council may, upon recommendation of the Manager, authorize the Purchasing Agent to purchase materials, supplies, or equipment in common use by the Departments and offices in large quantities and store the same until requisitioned by the Departments or offices for use. The Council shall provide a sufficient revolving fund in the annual appropriation ordinance of an adequate amount for the purpose of creating a store's account and stock for future supply of the Departments and offices when needed.

The Purchasing Agent shall keep a record of all sources of supply, of all quotations received, of all awards made, of all inspections, of all requisitions filed, and of all vendors furnishing commodities to

the City. He shall perform such other duties as may be prescribed by general law or ordinance or by the Manager.

(Amendment voted 3-10-53; effective 4-20-53.)

(Amendment voted 11-4-58; effective 2-19-59.)

(Amendment voted 11-4-75; effective 12-1-75.)

SECTION 36. CITY ENGINEER.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 37. PERSONNEL DIRECTOR.

The Personnel Director shall be appointed by the Civil Service Commission and shall have all powers and perform all duties prescribed for such Personnel Director in Section 116 of Article VIII. In addition thereto he shall exercise general supervision over the employment policy of the City, subject to the Civil Service provisions of this Charter and the directions of the Civil Service Commission. He shall keep a record of the personnel conditions in the City service and shall, upon the request of the Manager or of the Civil Service Commission, or on his own initiative, investigate problems relating to the securing of a better class of applicants for positions, and to the maintenance of efficiency among City Employees, and to any and all other matters relating to this department as may properly come before him.

The Personnel Director, with the approval of the Civil Service Commission and the Manager shall have jurisdiction to investigate working conditions of City service as they affect the health, welfare, efficiency, service and esprit de corps of the employees. He shall be accessible to any employee who shall desire to complain of any matter incident to his employment.

SECTION 38. CITY CLERK.

The City Clerk shall be elected by the Council for an indefinite term and shall serve until his successor has been elected and qualified. He shall maintain all official records of the City, the custody of which is not provided for in this Charter or by ordinances of the City, including the journal of all proceedings of the Council and all its ordinances and resolutions.

(Amendment voted 9-17-63; effective 2-11-64.)

SECTION 38.1. MICROFILMING OF RECORDS.

(Addition voted 4-19-49; effective 5-20-49.)

(Repeal voted 11-4-58; effective 2-19-59.)

SECTION 39. CITY AUDITOR AND COMPTROLLER.

The City Auditor and Comptroller shall be elected by the Council for an indefinite term and shall serve until his successor is elected and qualified. The City Auditor and Comptroller shall be the chief fiscal officer of the City. He shall exercise supervision over all accounts, and accounts shall be kept showing the financial transactions of all Departments of the City upon forms prescribed by him and approved by the City Manager and the Council. He shall submit to the City Manager and to the Council at least monthly a summary statement of revenues and expenses for the preceding accounting period, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and of each Department, Division and office thereof. No contract, agreement, or other obligation for the expenditure of public funds shall be entered into by any officer of the City and no such contract shall be valid unless the Auditor and Comptroller shall certify in writing that there has been made an appropriation to cover the expenditure and that there remains a sufficient balance to meet the demand thereof. He shall perform the duties imposed upon City Auditors and Comptrollers by the laws of the State of California, and such other duties as may be imposed upon him by ordinances of the Council, but nothing shall prevent the Council from transferring to other officers matters in charge of the City Auditor and Comptroller which do not relate directly to the finances of the City. He shall prepare and submit to the City Manager such information as shall be required by the City Manager for the preparation of an annual budget. He shall appoint his subordinates subject to the Civil Service provisions of this Charter.

(Amendment voted 6-4-74; effective 8-13-74.)

SECTION 40. CITY ATTORNEY.

At the municipal primary and general election in 1977, a City Attorney shall be elected by the people for a term of seven (7) years. A City Attorney shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties. The attorney and his deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to taking office.

The City Attorney shall appoint such deputies,

assistants, and employees to serve him, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter.

It shall be his duty, either personally or by such assistants as he may designate, to perform all services incident to the legal department; to give advice in writing when so requested, to the Council, its Committees, the Manager, the Commissions, or Directors of any department, but all such advice shall be in writing with the citation of authorities in support of the conclusions expressed in said written opinions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of him by law; to prepare in writing all ordinances, resolutions, contracts, bonds, or other instruments in which the City is concerned, and to endorse on each his approval of the form or correctness thereof; to preserve in his office a docket of all cases in which the City is interested in any of the courts and keep a record of all proceedings of said cases; to preserve in his office copies of all written opinions furnished by him to the Council, Manager, Commission, or any officer. Such docket, copies and papers shall be the property of the City, and the City Attorney shall, on retiring from office, deliver the same, together with all books, accounts, vouchers, and necessary information, to his successor in office.

He shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office, and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper, documents, or evidence necessary to be used in any suit, or required for the purpose of his office.

He shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption. He shall apply, upon order of the Council, to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or commission which fails to perform any duty expressly enjoined by law or ordinance.

The City Attorney shall perform such other duties of a legal nature as the Council may by ordinance require or as are provided by the Constitution and general laws of the State.

The Council shall have authority to employ addi-

tional competent technical legal attorneys to investigate or prosecute matters connected with the departments of the City when such assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

The salary of the City Attorney shall be fixed by the Council and set forth in the annual appropriation ordinance, provided that the salary of the City Attorney may not be decreased during his term of office, but in no event shall said salary be less than \$15,000.00 per year.

In the event of a vacancy occurring in the office of the City Attorney by reason of any cause, the Council shall have authority to fill such vacancy, which said authority shall be exercised within thirty (30) days after the vacancy occurs. Any person appointed to fill such vacancy shall hold office until the next regular municipal election, at which time a person shall be elected to serve the unexpired term. Said appointee shall remain in office until his successor is elected and qualified.

(Amendment voted 4-20-43; effective 5-4-43.)

(Amendment voted 4-15-47; effective 5-1-47.)

(Amendment voted 11-4-58; effective 2-19-59.)

(Amendment voted 11-6-62; effective 1-21-63.)

(Amendment voted 11-4-75; effective 12-1-75.)

SECTION 40.1. CONCURRENT JURISDICTION OF CITY ATTORNEY WITH DISTRICT ATTORNEY.

The City Attorney shall have concurrent jurisdiction with the District Attorney of the County of San Diego to prosecute persons charged with or guilty of the violation of the state laws occurring within the city limits of The City of San Diego for offenses constituting misdemeanors.

(Addition voted 3-10-53; effective 4-20-53.)

SECTION 41. COMMISSIONS.

The Mayor shall appoint, subject to the confirmation of the Council, members of all commissions established pursuant to this section. Whenever the Mayor does not appoint a member within forty-five (45) days after a vacancy occurs, the Council shall make such appointment. The commissioners shall be limited to two (2) full consecutive terms, with one (1) term intervening before they become eligible for reappointment; and this provision shall apply to anyone who has served two (2) full consecutive terms by January 1972. The terms of commissioners

may extend beyond the elective term of the appointing Mayor. The Mayor shall fill, subject to the confirmation of the Council, any vacancy and such appointment shall be for the unexpired term of the office being filled. The City Council may remove a member of the Civil Service Commission for cause by vote of two-thirds (2/3) of the members of the Council. However, before the Council may remove a member of the Civil Service Commission, written charges shall be made against the commission member and an opportunity afforded for public hearing before the Council upon such charges. The City Council may remove members of all other commissions established pursuant to this section for cause by vote of a majority of the members of the Council.

(a) FUNDS COMMISSION. This Commission shall have supervision and control over all trust, perpetuity, and investment funds of the City and such pension funds as shall be placed in its custody, and shall administer them subject to the laws of the State and ordinances of the Council. The membership of this Commission shall be appointed by the Mayor and confirmed by the Council and shall be one bank official, two unclassified citizens, and the City Attorney and City Treasurer, ex officio. They shall serve without compensation for terms of four (4) years and until their successors are elected and qualified. Notwithstanding any other provision of this section, appointments shall be made so that not more than one (1) term of office shall expire in any year.

(b) CIVIL SERVICE COMMISSION. There shall be a Civil Service Commission consisting of five members who shall be electors of the City. Not more than three members of the Commission shall be of the same sex. The Mayor, with the approval of the Council, shall appoint the members of the Commission. The members of the Commission shall be appointed to serve for five years and until their successors have been appointed and qualified. Notwithstanding any other provision of this section, appointments shall be made so that not more than one (1) term of office shall expire in any year. The Mayor, with the approval of the Council, shall fill any vacancy.

Members of the Civil Service Commission shall not hold any other office in City Government.

(c) CITY PLANNING COMMISSION. The City Planning Commission shall be organized as provided by the laws of the State and have such powers and perform such duties as are prescribed by such laws. The duties of the Commission shall also include advising upon public buildings, bridges, retaining walls, approaches, park and harbor structures, the improvement of Pueblo lands and such other improvements as the Council may by ordinance determine. The Commission shall consist of seven

(7) members appointed by the Mayor, subject to the confirmation of the Council. The City Engineer, and the City Attorney, or their designated representatives, shall be members ex officio, but neither of said officers shall have a vote. The members of this Commission shall serve without compensation for terms of four years and until their successors are elected and appointed and qualified.

Notwithstanding any other provisions of this section, appointments to this Commission shall be made so that not more than three (3) members are appointed in any one year. To accomplish this, initial appointments to this Commission, after the effective date of this amendment, shall be made so as to provide that the terms of office of two (2) members shall be for four (4) years; two (2) members for three (3) years; two (2) members for two (2) years; and one (1) member for one (1) year.

*(Amendment voted 9-17-63; effective 2-11-64.)
(Amendment voted 11-4-69; effective 1-29-70.)
(Portions of this section formerly in Sections 42 and 115. Old Section 41b moved to Section 115.)*

SECTION 41.1. SALARY SETTING COMMISSION.

There is hereby created a Salary Setting Commission consisting of seven members who shall be appointed by the Civil Service Commission for a term of four years. The first members shall be appointed for a term commencing January 1, 1974. Initially, the Commissioners shall be appointed in a manner so that three are appointed for two-year terms and four are appointed for four-year terms. The Salary Setting Commission shall recommend to the Council the enactment of an ordinance establishing salaries for the Mayor and Council as provided by this Charter. The Council shall provide the funds necessary to enable the Commission to perform its duties. The Civil Service Commission in its appointments shall take into consideration sex, race and geographical area so that the membership of such Commission shall reflect the entire community.

(Addition voted 11-6-73; effective 12-7-73.)

SECTION 42. MEMBERSHIP SELECTION.

The appointing authority in selecting appointees to commissions, boards, committees or panels shall take into consideration sex, race and geographical area so the membership of such commissions, boards, committees or panels shall reflect the entire community.

(Formerly Section 42. CITY PLANNING COMMISSION.)

*(Amendment voted 4-15-47; effective 5-1-47.)
(Amendment voted 9-17-63; effective 2-11-64.)
(Repeal voted 11-4-69; effective 1-29-70, language was moved to Section 41.)
(New Section 42. MEMBERSHIP SELECTION addition voted 11-6-73; effective 12-7-73.)*

SECTION 43. ADVISORY BOARDS AND COMMITTEES.

(a) The City Council may by ordinance create and establish advisory boards. Such boards shall be advisory to the Mayor, Council or City Manager as may be designated by ordinance. All members of such boards shall be appointed by the Mayor with Council confirmation, and the terms of office of such members may extend beyond the elective term of the appointing Mayor. The members of such boards shall serve without compensation and it shall be their duty to consult and advise with the Mayor, Council or City Manager, as the case may be, but not to direct the conduct of any Department or Division. Members of such advisory boards shall be limited to a maximum of eight (8) consecutive years in office and an interval of four (4) years must pass before such persons can be reappointed.

(b) The Mayor, City Council or City Manager may create and establish citizens' committees. Such committees shall be created and established only for the purpose of advising on questions with clearly defined objectives, and shall be temporary in nature, and shall be dissolved upon the completion of the objectives for which they were created. Committee members shall serve without compensation.

(c) Whenever under the provisions of this Charter or ordinance the Mayor is vested with authority to appoint the members of boards or committees and does not take such action within forty-five (45) days after the board or committee has been established or a vacancy occurs, then the Council shall make such appointments. The Council may remove committee and board members by vote of a majority of the members of the Council.

(d) CITIZENS' REVIEW BOARD ON POLICE PRACTICES. Notwithstanding any other provision of this Charter, the City Manager shall have the exclusive authority to create and establish a citizens' review board on police practices to review and evaluate citizens' complaints against members of the San Diego Police Department and the San Diego Police Department's administration of discipline arising from such complaints. The City Manager shall establish such rules and regulations as may be necessary for this board to carry out its functions; provided, however, that such rules and regulations shall be consistent with the laws of the State of California concerning citizens' complaints against peace offic-

ers. Nothing in such rules and regulations shall interfere with the board's authority to independently refer a completed citizen complaint investigation to the grand jury, district attorney, or any other governmental agency authorized by law to investigate the activities of a law enforcement agency. The board shall submit semiannual reports to the City Manager and City Council concerning its evaluation of the San Diego Police Department's investigation of citizens' complaints; provided, however, that such reports shall not disclose any information required to be kept confidential by law.

*(Amendment voted 9-17-63; effective 2-11-64.)
(Amendment voted 11-4-69; effective 1-29-70.)
(Portions of this section formerly in Section 43.1.)
(Amendment voted 11-8-88;)*

SECTION 43.1. COMMISSIONS, BOARDS, COMMITTEES-APPOINTMENTS.

*(Addition voted 9-17-63; effective 2-11-64.)
(Repeal voted 11-4-69; effective 1-29-70.)
(Language moved to Section 43.)*

SECTION 44. DIRECTORS OF DEPARTMENTS.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 45. CITY TREASURER.

The Manager shall appoint a Treasurer subject to confirmation by a majority of the members of the Council. He shall perform duties imposed upon City Treasurers by general law, the City Charter, or ordinances of the Council.

The office of the Treasurer shall consist of the Treasurer and such subordinate officers and employees as shall be authorized by ordinance.

The Treasurer shall receive, have the custody of, and disburse City moneys upon the warrant or check-warrant of the Auditor and Comptroller under the provisions of Section 53911 of the Government Code of the State of California. He shall keep such books and records as are necessary for the recording of all receipts and expenditures, together with a record of money in City depositories. Every Department officer, or institution which receives money directly from the public, shall deposit the same daily with the Treasurer, unless otherwise authorized by ordinance. The Treasurer shall demand and receive from the County Tax Collector moneys collected by him for use of the City. And it shall be the duty of such County official to deposit such money monthly with the City Treasurer.

The Treasurer shall determine pursuant to the general law of the state, the selection of depositories for City funds. All interest collected on City funds shall be accounted for monthly by the Treasurer.

Whenever any person is indebted to the City in any manner and the means of collection of such debt is not otherwise provided for by law or ordinance, the Treasurer shall be authorized to demand and receive the same. When any claim shall not be collectible by other methods, he shall report the same to the City Manager and the City Attorney for prosecution. When payment of a claim or any judgment thereon is made, he shall receive and receipt therefor in the name of the City.

The Treasurer shall issue notices for and collect special assessments previous to certification to the County Auditor, charges for permits for private use of public streets, and such other miscellaneous taxes, fees, assessments, licenses and privilege charges as may from time to time be assigned to him. He shall maintain a continuous inspection of the records and accounts of such taxes, licenses and privilege charges in order to effectuate their collection.

The Treasurer shall issue all permits and licenses except departmental permits and licenses which are by ordinance assigned to the particular Departments. Such permits and licenses shall be issued either directly by the Treasurer or upon specific authorization of the appropriate Department as may be required by ordinances, but all revenues derived therefrom shall be deposited with the Treasurer.

The Treasurer in office at the time this Charter is adopted by the people shall serve out the term of office for which he has been elected.

(Amendment voted 9-17-63; effective 2-11-64.)

SECTION 46. DEPARTMENT OF PUBLIC WORKS. STREET SUPERINTENDENT.

*(Amendment voted 4-21-53; effective 5-29-53.)
(Repeal voted 9-17-63; effective 2-11-64.)*

SECTION 47. DIVISION OF STREETS.

(Repeal voted 4-21-53; effective 5-29-53.)

SECTION 48. DIVISION OF SEWERS.

(Repeal voted 4-21-53; effective 5-29-53.)

SECTION 49. DIVISION OF REFUSE COLLECTION AND DISPOSAL.

(Repeal voted 4-21-53; effective 5-29-53.)

SECTION 50. DIVISION OF PUBLIC BUILDINGS.

(Repeal voted 4-21-53; effective 5-29-53.)

SECTION 51. DIVISION OF SHOPS.

(Repeal voted 4-21-53; effective 5-29-53.)

SECTION 52. DIVISION OF PUEBLO LANDS AND UNIMPROVED CITY PROPERTY.

(Repeal voted 4-21-53; effective 5-29-53.)

SECTION 53. WATER UTILITY.

There shall be included in the administrative organization of the City a separate utility to be known as the Water Utility. The financial information and records on which the accounts are to be kept shall be established and maintained by the City, in accordance with methods set forth in Section 109 of the City Charter.

All revenues of the Water Utility shall be deposited in a Water Utility Fund. The Manager shall include in the annual budget the estimated expenditure and reserve requirements of the Water Utility Fund. The City Council using such estimates as a basis shall include in the annual appropriation ordinance for the Water Utility Fund provision for operating and maintenance costs; replacements, betterments, and expansion of facilities; payments necessary for obtaining water from the Colorado River; any other contractual obligations; reserves for future expansion of water utility plant; reserves for future water purchases. In addition thereto, the Council shall levy annually a tax sufficient to provide for the redemption of municipal bonds heretofore or hereafter issued for water purposes; together with a sum sufficient to pay the interest thereon. The amount of money necessary to be raised each year for the redemption of water bonds and the payment of interest thereon and for the retirement of any other funded or contractual indebtedness incurred by purchase or otherwise for the development, conservation or distribution of water shall be charged annually against the Water Utility on the accounts of the City. Only after providing the requirements for Water Utility purposes as set forth above may the City Council in the annual appropriation ordinance provide for the transfer to the General Fund of the City any excess revenues accruing to the Water Util-

ity Fund. Such revenue transferred to the General Fund shall be available thereafter for use for any legal City purpose. All such surplus funds so transferred shall be credited on the accounts of the City as a reimbursement credit for the monies paid by the City each year for the redemption of Water Bonds and the payment of interest thereon, costs of services and facilities furnished to the water Utility by other City departments and funds, and an amount equal to the estimated loss in taxation which would be paid to the City by the Water Utility if it were not municipally owned, together with a reasonable profit on the City's investment in the water system.

The Council shall have power to employ special counsel for the purpose of advising and representing the City in all matters, proceedings and things relating to or concerning the development, impounding and distribution of water.

*(Amendment voted 4-22-41; effective 5-8-41.)
(Amendment voted 3-11-47; effective 3-24-47.)
(Amendment voted 9-17-63; effective 2-11-64.)*

SECTION 54. HARBOR DEPARTMENT.

*(Amendment voted 3-23-37; effective 4-14-37.)
(Amendment voted 4-22-41; effective 5-8-41.)
(Amendment voted 6-8-54; effective 1-10-55.)
(Amendment voted 6-7-60; effective 1-9-61.)
(Amendment voted 6-5-62; effective 6-29-62.)
(Repeal voted 9-17-63; effective 2-11-64.)*

SECTION 55. PARK AND RECREATION.

The City Manager shall have the control and management of parks, parkways, plazas, beaches, cemeteries, street trees, landscaping of City-owned property, golf courses, playgrounds, recreation centers, recreation camps and recreation activities held on any City playgrounds, parks, beaches and piers, which may be owned, controlled or operated by the City. The City Council shall by ordinance adopt regulations for the proper use and protection of said park property, cemeteries, playgrounds and recreation facilities, and provide penalties for violations thereof. The Manager is charged with the enforcement of such regulations.

All real property owned in fee by the City heretofore or hereafter formally dedicated in perpetuity by ordinance of the Council or by statute of the State Legislature for park, recreation or cemetery purposes shall not be used for any but park, recreation or cemetery purposes without such changed use or purpose having been first authorized or later ratified by a vote of two-thirds of the qualified electors of the City voting at an election for such purpose. However, real property which has been heretofore or

which may hereafter be set aside without the formality of an ordinance or statute dedicating such lands for park, recreation or cemetery purposes may be used for any public purpose deemed necessary by the Council.

Whenever the City Manager recommends it, and the City Council finds that the public interest demands it, the City Council may, without a vote of the people, authorize the opening and maintenance of streets and highways over, through and across City fee-owned land which has heretofore or hereafter been formally dedicated in perpetuity by ordinance or statute for park, recreation and cemetery purposes.

The City Manager shall also have charge of the management, control, preservation, regulation, improvement and embellishment of all public burial grounds and cemeteries belonging to the City, and the sale of lots therein. At least twenty percent of the net proceeds from the sale of all cemetery lots shall be deposited with the City Treasurer and be kept in a fund to be known as the Cemetery Perpetuity Fund. This fund shall be administered by the Funds Commission and shall be invested in such income-producing securities as the Funds Commission may decide. The principal of the perpetuity fund (subject to such accretion or diminution as may result from investing the same) shall not be available for meeting expenses for maintenance or upkeep of the cemeteries in any manner whatsoever. All income derived from the investment of the moneys in said perpetuity fund, together with the balance of the sale price of said lots not placed in the perpetuity fund, shall be expended in the maintenance and upkeep of the cemeteries and the perpetual care and upkeep of all graves and lots in said cemeteries; provided, however, that if in any one year such income is more than needed for the purpose of such maintenance, upkeep and perpetual care the Council may direct that the excess over and above that needed as above provided may be used for any other municipal purpose. If the income from said investments of said perpetuity fund and the balance of the sale price of said lots each year are not sufficient to maintain the cemeteries and to provide perpetual care and upkeep of all graves and lots in said cemeteries the Council shall annually appropriate from other revenues an amount sufficient to enable the City to provide perpetual care and upkeep of all graves and lots in the cemeteries.

(Amendment voted 4-22-41; effective 5-8-41.)

(Amendment voted 3-11-47; effective 3-24-47.)

(Amendment voted 4-21-53; effective 5-29-53.)

(Amendment voted 9-17-63; effective 2-11-64.)

(Amendment voted 11-4-75; effective 12-1-75.)

SECTION 55.1 MISSION BAY PARK-RESTRICTIONS UPON COMMERCIAL DEVELOPMENT

Notwithstanding any other provision of this Charter to the contrary, the total land and water area of all leases in Mission Bay Park shall not exceed twenty-five percent (25%) of the total dedicated land area or six and one-half percent (6.5%) of the total dedicated water area respectively of the park without such lease being authorized or later ratified by vote of 2/3's of the qualified electors of the City voting at an election for such purpose.

(Amendment voted 11-3-87.)

SECTION 56. BUREAU OF SAFETY.

(Repeal voted 4-21-53; effective 5-29-53.)

SECTION 57. POLICE DEPARTMENT.

The Police Department shall consist of a Chief of Police and such other officers, members and employees as the Council may from time to time prescribe by ordinance.

The Chief of Police shall be appointed by the City Manager and the appointment shall be confirmed by a majority of the Council, provided, however, that the Chief of Police may be removed by the City Manager at any time in the manner provided for in Section 30 of Article V of this Charter.

The Chief of Police, with the approval of the City Manager, shall appoint, direct and supervise the personnel, subject to Civil Service regulation, have charge of the property and equipment of the department and exercise all powers and duties provided by general laws or by ordinance of the Council. The Chief of Police shall have all power and authority necessary for the operation and control of the Police Department.

(Amendment voted 11-6-56; effective 1-10-57.)

(Amendment voted 9-17-63; effective 2-11-64.)

SECTION 58. FIRE DEPARTMENT.

The Fire Department shall consist of a Chief of the Fire Department and such other officers, members and employees as the Council may from time to time prescribe by ordinance.

The Chief of the Fire Department shall be appointed by the City Manager and the appointment shall be confirmed by a majority of the Council, provided,

however, that the Chief of the Fire Department may be removed by the City Manager at any time in the manner provided for in Section 30 of Article V of this Charter. The Chief of the Fire Department shall have all power and authority necessary for the operation and control of the Fire Department and the protection of the lives and property of the people of the City from fire.

The Chief of the Fire Department, with the approval of the City Manager, shall direct and supervise the personnel. Members of the Fire Department shall be subject to all the Civil Service provisions of this Charter contained in Article VIII. This section shall not become effective until July 1, 1974.

(Amendment voted 11-6-56; effective 1-10-57.)
(Amendment voted 9-17-63; effective 2-11-64.)
(Amendment voted 11-6-73; effective 12-7-73.)

SECTION 59. DEPARTMENT OF INSPECTION.

(Amendment voted 4-17-51; effective 5-3-51.)
(Amendment voted 4-21-53; effective 5-29-53.)
(Amendment voted 6-8-54; effective 1-10-55.)
(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 60. DEPARTMENT OF PUBLIC HEALTH.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 60.1. PLUMBING PERMITS AND INSPECTIONS REGULATED BY COUNCIL.

(Addition voted 4-19-49; effective 5-20-49.)
(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 60.2. AUTHORITY TO CONSOLIDATE DEPARTMENT OF PUBLIC HEALTH WITH THE COUNTY OF SAN DIEGO.

(Addition voted 11-4-52; effective 1-17-53.)
(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 61. SOCIAL SERVICE DEPARTMENT.

(Amendment voted 4-21-53; effective 5-29-53.)
(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 62. PLAYGROUND AND RECREATION DEPARTMENT.

(Repeal voted 3-11-47; effective 3-24-47.)

SECTION 63. LIBRARY DEPARTMENT.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 64. SUPPORT OF EDUCATIONAL AND CULTURAL INSTITUTIONS.

The Council shall annually make appropriations for the support of all institutions of an educational, scientific, historical and cultural character, and which have a tendency to promote the welfare of the City and its inhabitants, which are now or which may hereafter be controlled by The City of San Diego and partially or wholly operated and maintained by said City for the benefit of its inhabitants.

ARTICLE VI

BOARD OF EDUCATION

SECTION 65. SCHOOL SYSTEM.

(Repeal voted 11-6-62; effective 1-21-63.)

SECTION 66. BOARD OF EDUCATION.

The government of the San Diego Unified School District shall be vested in a Board of Education, composed of five members who shall be nominated and elected at the regular municipal primary elections and the general municipal elections at the same time as the election of Council members. At the municipal primary election there shall be chosen by the registered voters of each Board of Education District two candidates for the office of any Board of Education member from a District whose term expires the succeeding December. At the general municipal election the registered voters of the whole San Diego Unified School District shall select from among the candidates chosen at the primary election in each district one candidate for the office of each Board of Education member whose term expires the succeeding December. Each candidate for the Board of Education shall have been a registered voter of the San Diego Unified School District and an actual resident of the election district from which he seeks to be nominated for thirty (30) days immediately preceding filing of a nominating petition. The members shall serve for a term of four years from and after 10 a.m. the first Monday after the first day of December next succeeding this election and until their successors are elected and qualified, except as herein provided. Any vacancy occurring in the Board shall be filled from the election district in which the vacancy occurs by appointment by the remaining Board members; but in the event that said remaining members fail to fill such vacancy by appointment within thirty (30) days after the vacancy occurs, they must immediately cause to be held a primary election in the district in which the vacancy occurs and a general election within the entire school district to fill such vacancy; provided, however, that any person appointed to fill such vacancy shall hold office only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term.

For the purpose of electing members of the Board of Education, the San Diego Unified School District shall be divided into five (5) districts as nearly equal in population a practicable. For the first primary and regular election held under this sec-

tion, as amended, the boundaries of such election districts shall be established by the Board of Education as such Board existed on the effective date of the amendment to this section. Thereafter, the boundaries of such election districts shall be subject to alteration and change under the provisions of this section. The Board of Education, by resolution, may change and alter the boundaries of the election districts and in the resolution may describe the new boundaries by reference to a map on file in the office of the City Clerk; a metes and bounds description of the new boundaries need not be contained in said resolution.

*(Amendment voted 3-28-39; effective 4-24-39.)
(Amendment voted 4-21-53; effective 5-29-53.)
(Amendment voted 11-4-58; effective 2-19-59.)
(Amendment voted 11-6-62; effective 1-21-63.)
(Amendment voted 11-3-64; effective 1-21-65.)
(Amendment voted 11-4-69; effective 1-29-70.)
(Amendment voted 11-6-79; effective 12-17-79.)*

SECTION 67. POWERS AND DUTIES.

The powers and duties of the Board of Education shall be such as are now, or may hereafter be conferred upon such boards by the laws of the State of California.

ARTICLE VII
FINANCE

SECTION 68. BUDGET AND ACCOUNTING SYSTEM.

A complete budget and accounting system of municipal receipts and expenditures is hereby established.

(Amendment voted 4-21-53; effective 5-29-53.)

SECTION 69. FISCAL YEAR AND MANAGER'S ESTIMATE.

The fiscal year of the City shall begin with the first day of July and shall end with the next succeeding 30th day of June. On or before the first meeting in May of each year the Manager shall prepare and submit to the Council a budget of the expense of conducting the affairs of the City for the ensuing fiscal year. Departments not under the Manager shall submit their annual budget estimates to the Manager, or to such official as he may designate, and in such form as he shall require on or before April 1 for transmittal in proper form by the Manager to the Council. The budget shall include a summary outline of the fiscal policy of the City for the budget year, describing in connection therewith the important features of the budget plan; a general budget summary setting forth the aggregate figures of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated income and other means of financing the budget for the ensuing year, contrasted with corresponding figures for the current year. The classification of the estimate shall be as nearly uniform as possible for the main divisions of all Departments and shall furnish necessary detailed fiscal information.

The Council shall provide for printing a reasonable number of copies of the estimate thus prepared, for examination or distribution to citizens at least fifteen days before final passage. Copies shall also be furnished to the newspapers of the City and to each library thereof which is open to the public.

*(Amendment voted 11-6-62; effective 1-21-63.)
(Amendment voted 11-4-69; effective 1-29-70.)*

SECTION 70. POWER TO FIX SALARIES.

The Council shall have the power to fix salaries of the City Manager, the City Clerk, the City Treasurer,

the City Auditor and Comptroller, and all other officers under its jurisdiction. All members of Commissions shall serve without compensation except where otherwise provided by State law or this Charter. Except as otherwise provided by law, the City Manager and other departmental heads outside of the departments under control of the City Manager shall have power to recommend salaries and wages subject to the personnel classification determined by the Civil Service Commission, of all other officers and employees within the total amount contained in the Annual Appropriation Ordinance for personal service in each of the several departments of the City Government. All increases and decreases of salary or wages of officers and employees shall be determined at the time of the preparation and adoption of the budget, and no such increase or decrease shall be effective prior to the fiscal year for which the budget is adopted; provided, however, that if during any fiscal year, the Council should find and determine that because of a significant change in living costs, the salaries and wages fixed for such fiscal year are not comparable to the level of other salaries and wages of other public or private employments for comparable services and as a result, the best interests of the City are not being protected or are in jeopardy, said Legislative Body, upon recommendation of the Manager or other department head, and if funds are available, may revise such salary and wage schedules to the extent necessary to protect the City's interests.

*(Amendment voted 3-13-51; effective 3-26-51.)
(Amendment voted 11-8-77; effective 1-20-78.)*

SECTION 71. PREPARATION AND PASSAGE OF ANNUAL APPROPRIATION ORDINANCE.

Upon receipt of the Manager's estimate the Council shall prepare an appropriation ordinance using such estimate as a basis. The form, arrangement and itemization of the appropriation ordinance shall be determined and prescribed by the Auditor and Comptroller, and City Attorney. Provision shall be made by the Council for a minimum of two (2) public hearings upon the appropriation ordinance either before a Committee of the Council or before the Council sitting as a committee of the whole. Following the public hearings the appropriation ordinances shall take the same course in the Council as other ordinances and shall be adopted during the month of July. The Council may reduce or eliminate any item, may increase any amount or add any new item for personal services, contractual services, materials, supplies, and equipment for any Department. However, the appropriation for the general operations of the City excluding water utilities funds, capital improvements, bond interest and redemption, retirement system contributions, grant funded programs, all other special funds in exist-

ence prior to the effective date of this section and expenditures to pay judgments or extraordinary claims or to defray the cost of emergency measures as defined in Section 17 of this Charter shall not exceed the prior year's appropriation for general operations of the City, with the stated exclusions, adjusted by no more than three quarters ($\frac{3}{4}$) of the percentage change in the price index added to any percentage increase in population growth. For purposes of this limitation, the term "percentage change in price index" shall be the percentage change from the first full quarter of the prior calendar year to the first full quarter of the current calendar year in the costs of goods and services purchased by local governments, as determined by the City Auditor and Comptroller from information published by United States Department of Commerce or other official government sources. The term "percentage increase in population growth" shall be any percentage increase from the first full quarter of the prior calendar year to the first full quarter of the current calendar year in the total population of the City as estimated by the Planning Director. This limitation shall not apply to any expenditure approved by a majority of the qualified electors of the City voting at a general or special election subsequent to the effective date of this section. In the event that the revenues for the general operations of the City, with the stated exclusions, exceed the appropriation for such operations by more than 5%, such excess shall be used solely for tax reductions or tax refunds in a manner determined by the City Council. Upon final passage, the appropriation ordinance shall be published in the manner provided for the publication of other ordinances.

(Amendment voted 11-6-62; effective 1-21-63.)

(Amendment voted 11-4-69; effective 1-29-70.)

(Amendment voted 11-7-78; effective 1-12-79.)

SECTION 71a. REAPPROPRIATIONS AT BEGINNING OF FISCAL YEAR FOR SALARIES AND MAINTENANCE AND SUPPORT EXPENSES.

If at the beginning of any fiscal year the appropriations necessary for the support of the various City offices, departments, services or institutions for such fiscal year shall not have been made, the several amounts appropriated in the Annual Appropriation Ordinance for the preceding year for the objects and purposes therein specified, so far as the same shall relate to salaries and wages and maintenance and support expenses, shall be deemed to be reappropriated for the several objects and purposes specified in said previous year's Annual Appropriation Ordinance until the Council shall adopt the Annual Appropriation Ordinance for the new fiscal year; and during such interim the Auditor and

Comptroller shall approve the payments necessary for the support of the various City offices, departments, services and institutions on the basis of the appropriations of the preceding fiscal year.

(Addition voted 4-20-43; effective 5-4-43.)

SECTION 72. APPROPRIATION ACCOUNTS.

Accounts shall be kept by the Auditor and Comptroller for each item of appropriation made by the Council. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the transfers made thereto, the unpaid obligations charged against it, and the unencumbered balance to the credit thereof. Upon completion of a project for which specific ordinance appropriation is made, it shall be the duty of the Director of the Department concerned at once to so notify the Auditor and Comptroller by letter of completion and clearance. The Auditor and Comptroller shall thereupon transfer any unexpended balance to the general fund. If after one year from date of approval of such ordinance, the Auditor and Comptroller has not received notice of completion or that the work is not progressing, he shall without further consideration restore the unexpended balance in the item so set up to the general fund.

SECTION 73. TRANSFER OF APPROPRIATIONS.

Upon the written recommendation of the Manager, the Council may at any time transfer all or part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated for the same Department or office; provided, however, the Council shall have no authority to transfer all or any part of the salary account during the fiscal year to any other purpose, save and except in the event of a public emergency, and then only for the purpose of insuring the safety and lives and property of the inhabitants of The City of San Diego.

SECTION 74. APPROPRIATION REQUIRED FOR CITY DEBT.

An appropriation on account of the debt of the municipality, at least equal to the amount or amounts, estimated by the Manager to be required for the purpose, shall be included in each Annual Appropriation Ordinance passed by the Council. If for any reason the Council fail to include such an appropriation in the Annual Appropriation Ordin-

nance or shall appropriate for the debt of the municipality less than estimated by the Manager to be required for that purpose, or less than that actually required for that purpose, the Auditor and Comptroller shall nevertheless cause to be set up, an appropriation account for the full amount so estimated or actually required and shall, notwithstanding any other appropriation made by the Council, transfer to such account out of any moneys of the municipality derived from taxes and paid into the Treasury, such amount or amounts as may be necessary to bring the appropriation for the City debt up to the full amount of the Manager's estimate or the sum actually required.

Any taxpayer of the City or owner of any bond thereof may bring suit against the Auditor and Comptroller in the Superior Court to enforce the provisions of this section and if, upon such suit, it be found that the Council has failed to make an appropriation for the full amount estimated by the Manager and actually required for the City debt and that the Auditor and Comptroller has failed to set up the appropriation account and provide for transfers thereto as required by this section, the court shall order the establishment of such appropriation account and the necessary transfers thereto as hereinbefore provided. And such action by the court shall have the same force and effect in regard to appropriations for the City debt as though taken by the Council in the Annual Appropriation Ordinance.

SECTION 75. ANNUAL TAX LEVY.

The Council shall adopt, not later than the last day in August of each year, an ordinance levying upon the assessed valuation of all property in the City, a rate of taxation sufficient to raise the amount estimated to be required in the annual budget and as herein provided, less the amounts estimated to be received from fines, licenses, and other sources of revenue, using as a basis the value of the property as assessed by the County Assessor, as the same may be equalized and returned to the Council by County Auditor as provided by general law. The Council shall immediately thereafter transmit to the County Auditor of the County of San Diego, a statement of such rate or rates so fixed by it.

(Amendment voted 11-4-75; effective 12-1-75.)

SECTION 76. LIMIT OF TAX LEVY.

The tax levy authorized by the Council to meet the Municipal expenses for each fiscal year shall not exceed the rate of \$1.34 on each \$100.00 of assessed valuation of the real and personal property within the city. In addition to the foregoing tax levy, the

Council, if necessary, shall levy annually a sum sufficient to meet the requirements of the pension funds herein provided for the Police and Fire Departments and the City Employees' Retirement Fund. No special tax shall be permitted except as expressly authorized by this Charter. The foregoing limitations shall not apply in the event of any great necessity or emergency, in which case they may be temporarily suspended, provided that no increase over said limits, except as in this Charter prescribed shall be made in any fiscal year unless authorized by ordinance adopted by the vote of two-thirds of the electors of this City voting on the proposition, and provided further that no indebtedness shall ever be incurred by The City of San Diego for public improvements which shall in the aggregate exceed twenty-five percent (25%) of the assessed value of all real and personal property of such City, anything in this Charter contained to the contrary notwithstanding. This limitation on the part of the City to incur indebtedness shall be construed to include any indebtedness which may be incurred by special taxes or by the voting of bonds by the electors.

SECTION 76.1 SPECIAL TAXES.

Notwithstanding any provision of this Charter to the contrary, a special tax, as authorized by Article XIII A of the California Constitution may be levied by the Council only if the proposed levy has been approved by a two-thirds vote of the qualified electors of the City voting on the proposition; or if the special tax is to be levied upon less than the entire City, then the tax may be levied by the Council only if the proposed levy has been approved by a two-thirds vote of the qualified electors voting on the proposition in the area of the City in which the tax is to be levied.

(Amendment voted 11-8-83; effective 12-30-83.)

SECTION 77. CAPITAL OUTLAY FUND.

There is hereby created a fund in the City Treasury, to be known as the Capital Outlay Fund. Into this fund each year there shall be placed all moneys derived from taxation required or needed for capital outlay expenditures and all proceeds received from the sale of city-owned real property.

The moneys in the Capital Outlay Fund shall be used exclusively for the acquisition, construction and completion of permanent public improvements, including public buildings and such initial furnishings, equipment, supplies, inventory and stock as will establish the public improvement as a going concern. This fund may also be used for the acquisition, construction and completion of real property, water and sewer mains and extensions, and other

improvements of a permanent character and also the replacement or reconstruction of the same, but not the repair or maintenance thereof, and shall not be used for any other purpose or transferred from said fund, except with the consent of two-thirds of the qualified electors of said City, voting at a general or special election.

No moneys in said fund shall be transferred at the end of a fiscal year, but shall remain therein as trust moneys for the purposes above outlined, and the said fund shall be used and maintained, if possible, as a cash reserve to enable the City to meet public emergencies or acquire needed permanent public improvements without the issuance of bonds.

Each year the Council may appropriate from said fund in the Annual Appropriation Ordinances, except for use of the Harbor Department, sufficient moneys to care for the needs of the various departments of the City for capital outlay expenditures of a permanent character.

*(Amendment voted 4-22-41; effective 5-8-41.)
(Amendment voted 4-20-43; effective 5-4-43.)
(Amendment voted 4-19-49; effective 5-20-49.)
(Amendment voted 11-6-62; effective 1-21-63.)
(Amendment voted 6-7-66; effective 6-29-66.)*

SECTION 77a. PROVISION FOR ZOOLOGICAL EXHIBITS.

The Council shall levy annually, in addition to all other taxes provided for in this Charter, not less than two cents (\$0.02) on each one hundred dollars (\$100.00) of the assessed valuation of the real and personal property within the City, to be used exclusively for the maintenance in Balboa Park of zoological exhibits.

Whenever the Council deems it to be for the best interests of the City, the Council may enter into a contract, upon such terms and conditions as the Council may prescribe, for the maintenance in Balboa Park of zoological exhibits, with any organization formed primarily for the purposes of maintaining zoological gardens and zoological exhibits and conducting general zoological work; and may make available to such organization the proceeds of the special tax levy provided for in this section.

*(Addition voted 11-6-34; effective 1-21-35.)
(Amendment voted 4-22-41; effective 5-8-41.)*

SECTION 77b. PUBLIC TRANSPORTATION.

The Council may levy, in addition to all other taxes provided for in this Charter, a special tax in an amount not to exceed ten cents (\$0.10) on each one hundred dollars (\$100.00) of the assessed valuation

of all real and personal property within the City, to be used for discharging any obligations undertaken by the City to acquire, develop, operate or maintain a public transportation system or to assist a non-profit corporation to acquire, develop, operate or maintain a public transportation system.

The Council may establish special funds, execute contracts, acquire property by purchase, devise, lease, gift or condemnation, and may sell, lease, convey, exchange, dispose of, or lend property or funds in order to provide, promote or preserve a public transportation system. The enumerated powers in this section are in aid of public transportation and shall not be limited by any other provisions of this Charter.

(Addition voted 6-7-66; effective 6-29-66.)

SECTION 78. ASSESSMENT AND COLLECTION OF TAXES.

The Council shall by ordinance provide that the assessment and collection of taxes for The City of San Diego shall be performed by the County Assessor and County Tax Collector of the County of San Diego and make such arrangements to carry out the provisions of this ordinance. Provided, however, that if at any time the majority of the electors of The City of San Diego voting at an election for that purpose, decide to have the City assume the duty of assessing and collecting the taxes for municipal purposes, then the Council may by ordinance provide for such assessment and collection of taxes by City officers and make the necessary arrangements to carry out the will of the people as expressed at such election.

SECTION 79. SPECIAL ASSESSMENTS.

The Council shall have power by ordinance to provide for the payment of all or any part of the cost of any public service or of the acquisition of any land or other property for public use, or of the construction, reconstruction, operation or maintenance of any structure or work in the nature of a public facility or improvement, by levying and collecting special assessments upon property specially benefited. The mode and manner for the acquisition of any land or other property for public use or of the construction, reconstruction, operation or maintenance of any structure or work in the nature of a public facility or improvement and the levying and collecting of special assessments therefor shall be as prescribed at that time by the general law of the State of California relative thereto; unless the Council shall by ordinance provide otherwise.

The legal and engineering work of preparing pro-

ceedings, plans and specifications, costs and estimates of any improvements under this Section shall be done and performed by the offices of the City Attorney and City Engineer respectively. However, if there shall be filed with the City Clerk for presentation to the Council a request in writing by property owners interested that such legal and engineering work be performed by attorneys and engineers outside of the City employ, the Council may so provide. As a condition precedent to the Council's granting permission for the employment of private attorneys or engineers, the property owners interested, the private attorney or the engineer, as appropriate, shall agree to hold the City free and harmless of and from any and all liability or cost or expense if for any reason the project is abandoned by the Council or the assessments are not levied or collected. On City-initiated projects toward which the City or other public agency contributes a portion of the costs, the Council may provide for the employment of private attorneys or engineers without requiring compliance with the foregoing condition precedent.

(Amendment voted 6-7-66; effective 6-29-66.)

SECTION 80. MONEY REQUIRED TO BE IN TREASURY.

No contract, agreement, or other obligation, involving the expenditure of money out of appropriations made by the Council in any one fiscal year shall be entered into, nor shall any order for such expenditure be valid unless the Auditor and Comptroller shall first certify to the Council that the money required for such contract, agreement or obligation for such year is in the treasury to the credit of the appropriation from which it is to be drawn and that it is otherwise unencumbered. The certificate of the Auditor and Comptroller shall be filed and made a matter of record in his office and the sum so certified as being in the treasury shall not thereafter be considered unencumbered until the City is discharged from the contract, agreement or obligation. All unencumbered moneys actually in the treasury to the credit of the appropriation from which a contract, agreement or obligation is to be paid and all moneys applicable to its payment which before the maturity thereof are anticipated to come into the treasury to the credit of such appropriation shall, for the purpose of such certificate, be deemed in the treasury to the credit of the appropriation from which the contract, agreement or obligation is to be paid.

(Amendment voted 6-4-68; effective 7-22-68.)

SECTION 81. ALLOTMENTS.

The Manager shall be responsible for establishing

internal budgetary allotments based on the allocations contained in the annual appropriation ordinance for each department of the City.

(Amendment voted 11-4-69; effective 1-29-70.)

SECTION 82. EXAMINATION AND INVESTIGATION OF CLAIMS BY THE AUDITOR AND COMPTROLLER.

The Auditor and Comptroller shall examine all payrolls, bills, and other claims and demands, except claims for damages against the City, and shall issue no warrant or check-warrant for payment unless he finds that the claim is in proper form, correctly computed, and duly approved; that it is legally due and payable; that an appropriation has been made therefor which has not been exhausted; and that there is money in the treasury to make payment. He may investigate a claim and for that purpose may summon before him any officer, agent or employee of the City, any claimant or other person, and examine him upon oath or affirmation relative thereto, and if he finds a claim to be fraudulent, erroneous or otherwise invalid, he shall not issue a warrant or check-warrant therefor. If the Auditor and Comptroller issue a warrant or check-warrant on the treasury authorizing payment of any claim in contravention of the provisions of this Section, he and his sureties shall be jointly and severally liable to the City for the amount of such warrant or check-warrant if paid. All payrolls, bills and other claims and demands under the provisions of this section may be paid by warrants or check-warrants as authorized by the provisions of Section 53911 of the Government Code of the State of California.

(Amendment voted 9-17-63; effective 2-11-64.)

SECTION 83. PAYMENT OF CLAIMS AGAINST THE CITY.

No claim against the City shall be paid except by means of a check-warrant authorized under the provisions of Section 53911 of the Government Code or a warrant on the treasury issued by the Auditor and Comptroller. The Auditor and Comptroller shall issue no warrant or check-warrant for the payment of a claim unless the claim be evidenced by voucher approved by the head of the Department or office for which the indebtedness was incurred, and each such officer and his surety shall be liable to the City for all loss or damage sustained by reason of his negligence or corrupt approval of any claim. No demand shall be allowed, approved, audited, or paid unless it shall specify each item of the claim and the date thereof; provided, however, that warrants or check-warrants for salaries of officers and employees shall be allowed by the Auditor and

Comptroller and paid regularly from the treasury without the necessity of any demand therefor or approval thereof as in this section prescribed for other claims.

*(Amendment voted 6-5-56; effective 1-10-57.)
(Amendment voted 9-17-63; effective 2-11-64.)*

SECTION 84. MONEY TO BE DRAWN FROM TREASURY IN ACCORDANCE WITH APPROPRIATION.

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the Annual Appropriation Ordinance, and preliminary appropriation ordinance, or of the annual appropriation changed as authorized by Section 73 and subsection (h) of Section 69 of this Article. At the close of each fiscal year any unencumbered balance of an appropriation except retirement funds, and such trust funds as may be established by this Charter shall revert to the fund from which appropriated and shall be subject to reappropriation but appropriations may be made by the Council, to be paid out of the revenues of the current year, in furtherance of improvements or other objects or works which will not be completed within the year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

SECTION 85. DAILY DEPOSITS OF MONEY.

All moneys received from taxes, licenses, fees, fines, penalties and forfeitures and all moneys which may be collected or received by any officer of the City in his official capacity, or from any Department of the City for the performance of any official duty and all moneys accruing to the City from any source and all moneys directed by law or by this Charter to be paid or deposited in the treasury, shall be paid into the treasury daily.

SECTION 86. DISPOSITION OF PUBLIC MONEYS

All City officials and employees empowered to collect money for fees, permits, licenses, inspections, services, taxes or other municipal charges, shall collect the same promptly at the time they become due, turn them into the City Treasury daily, obtain a receipt therefor, and report the same to the City Auditor and Comptroller weekly; provided, however, that in the case of employees located in distant parts of the city or county who in the course of their duties collect money belonging to the City, which collections can be deposited in the City Treasury

daily only with difficulty and undue cost to the City, such collections may be deposited in the City Treasury within one week after their receipt by the employee collecting the same. All such moneys and all fines or pecuniary penalties or forfeitures which may accrue to the City, and all funds which may remain in the possession of the City unclaimed after a period of one year from the date when due and payable, shall be credited to the general fund of the City, and shall be applicable to any purpose to which the Council may appropriate them and the Council shall appropriate from this fund whatever sum may be necessary to pay valid claims of more than one year's standing.

(Amendment voted 4-22-41; effective 5-8-41.)

SECTION 87. UNIFORM ACCOUNTS AND REPORTS.

The Auditor and Comptroller shall prescribe uniform forms of accounts which shall be observed by all officers and Departments of the City which receive or disburse City moneys. Whenever an act shall be passed by the legislature of the State providing for uniform municipal accounts or reports, the City Council may elect to conform thereto.

SECTION 88. MONTHLY REPORTS OF OFFICERS.

At least monthly every officer authorized by law to charge any fee, commission, percentage, allowance or compensation, must make a written report to the Auditor and Comptroller of all moneys received by him during the preceding accounting period.

(Amendment voted 6-4-74; effective 8-13-74.)

SECTION 89. MONTHLY STATEMENTS BY THE AUDITOR AND COMPTROLLER.

The Auditor and Comptroller shall prepare for submission to the Council at least monthly, or when requested, a summary statement of revenues and expenses for the preceding accounting period, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and of each Department and Division thereof as of the last day of the previous accounting period.

(Amendment voted 6-4-74; effective 8-13-74.)

SECTION 90. CONTRACTING BONDED INDEBTEDNESS.

(a) Whenever the Council shall determine that the

public interest or necessity demands the acquisition, construction or completion of any municipal improvement authorized to be acquired, constructed, completed or maintained by The City of San Diego, the cost of which will be too great to be paid out of the ordinary annual income and revenue of said City, the Council may contract bonded indebtedness for said purposes or any of them, pledging the credit of the City or the property or revenue of any public utility owned by the City and the proceedings taken for incurring such indebtedness shall be in accordance with the mode and manner prescribed by the provisions of the general laws of the State of California relative to incurring bonded indebtedness by municipalities in force at the time such proceedings are taken. Every ordinance or resolution determining that the public interest or necessity demands such improvement shall be adopted only by a vote of five members of the Council and it shall require a vote of two-thirds of the electors voting on each proposition at a regular or special election for the issuance of such bonds before said indebtedness or liability for said improvements may be incurred, except ordinances authorizing such bond issues as are specified in Section 92 of this Article. No bonds, except such bonds as have been heretofore or maybe hereafter issued for the purpose of acquiring, constructing or completing improvements for the development, conservation and furnishing of water as hereinafter provided, shall be issued on the credit of the City which will increase the bonded indebtedness of said City beyond ten per cent of the assessed valuation of all real and personal property of said City subject to direct taxation as shown by the last preceding valuation for City taxes.

(b) Whenever the Council shall determine that the public interest or necessity demands the acquisition, construction or completion of any municipal improvement for the development, conservation and furnishing of water, whether in the County of San Diego or elsewhere, the Council may contract bonded indebtedness for such improvement for the development, conservation and furnishing of water whenever authorized to do so by a vote of two-thirds of the electors voting at an election held for that purpose in the manner and mode prescribed by the general laws of the State of California in force at the time of holding said election. Bonds issued by virtue of the authority of this paragraph (b) including all bonds now outstanding for the purpose of development, conservation and furnishing of water, shall not exceed in amount the sum of fifteen per cent of the assessed valuation of all real and personal property of said City subject to direct taxation as shown by the last preceding valuation for City taxes. The fifteen per cent limitation contained herein shall be in addition to the amount authorized to be issued for other improvements as set forth in paragraph (a) of this section, it being the intent and purpose of

this language to permit the City to incur a bonded indebtedness in an amount not to exceed ten per cent for all municipal improvements other than the development, conservation and furnishing of water, and in addition thereto to authorize bonds in an amount not to exceed fifteen per cent of the assessed valuation for the development, conservation or furnishing of water; provided however, that indebtedness and liability for municipal improvements of every kind and character authorized to be incurred by the provisions of this Charter shall not exceed in amount the sum of twenty-five percent of the assessed valuation of all real and personal property of said City subject to direct taxation as shown by the last preceding valuation for City taxes.

(c) Every issue of bonds authorized by the provisions of this Section shall be payable within a term of years not to exceed the estimated period of usefulness of the property or improvement for which issued, and in no case to exceed the constitutional limit; provided, that at any time the Council may postpone the payment on all bonds issued for an income-producing utility for a period of five years from date of issue, but shall provide for the interest payment from the date of issue.

(d) When the municipal improvement for which the bonds were voted, as provided in the foregoing Subdivisions of this Section, has been fully completed, all or any surplus money derived from the sale of said bonds remaining in the City Treasury shall be used exclusively for the purpose of redeeming said bonds or paying the interest thereon.

SECTION 90.1.

Subdivision 1. Unless the context otherwise requires, the definitions set forth in this subdivision govern the construction of this section.

"City" means The City of San Diego.

"This section" means this amended Section 90.1.

"Waterworks" means all facilities, property and works of the City for the development, obtaining, conservation, production, storage, treatment, transmission, furnishing and distribution of water for public and private use (whether located within or without the City) and shall comprise the public utility system of the City for water purposes, as mentioned in Section 1 of this Charter.

"Revenues" includes all moneys received from rates, tolls, or charges for water or for service from the waterworks or any part thereof, and all other income and receipts derived from the use of or operation of the waterworks or any part thereof, or otherwise arising from the waterworks or any part

thereof, or any other income of the Water Department and includes interest on all funds derived from or established for the waterworks. "Revenues" shall not be construed to include taxes or assessments.

"Water rates" means rates, tolls or charges for water or for service by the waterworks or any part thereof.

Subdivision 2. Revenue bonds to provide money for the acquisition and construction of additions to and extensions and improvements of the waterworks of the City and the reconstruction and replacement of parts of such waterworks and the acquisition of all lands, easements, rights and property necessary for such purposes, may be issued as provided in this section. Any issue of revenue bonds may be for any or all of said purposes. Such revenue bonds, hereinafter sometimes called "bonds" or "revenue bonds" shall not constitute an indebtedness of the City but shall constitute obligations which shall be payable, principal and interest and any premiums upon the redemption thereof prior to maturity, only from a special fund which shall consist of such revenues of the Water Department as are in excess of the amount needed to operate and maintain the Water Department (and said special fund is presently designated and is sometimes hereinafter in this section called the "Water Department Revenue Bond Fund"); provided, however, that this shall not preclude the payment or redemption of such bonds from the proceeds of refunding bonds issued to refund said revenue bonds or the use of accrued interest and premiums paid upon the sale and delivery of the revenue bonds for the payment of principal thereof or interest thereon. Refunding revenue bonds for the purpose of refunding any revenue bonds issued under this section may be issued as provided in this section and shall be payable only from the fund from which the revenue bonds to be refunded are payable. No restriction or limitation upon or procedure for the issuance of bonds in other sections of this Charter shall apply to revenue bonds issued under this section (including refunding revenue bonds) and this section shall constitute complete authority for the issuance of such revenue bonds (including such refunding revenue bonds) and no action or proceeding not required by this section shall be necessary for the valid authorization and issuance of such revenue bonds. No revenue bond issued under this section or any interest payable thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the City or any other revenues of the City except such revenues of the Water Department as are in excess of the amount needed to operate and maintain the Water Department.

Subdivision 3. The limitations upon bonded indebtedness of The City of San Diego contained in

sections 76 and 90 of this Charter or in any other section or provision thereof shall not apply to revenue bonds issued under the provisions of this section and payable exclusively from the fund mentioned in Subdivision 2 hereof derived from revenues from the waterworks of the City and not payable from taxes levied by the City. Waterworks revenue bonds payable from a special fund derived from revenues of the Water Department shall not be deemed indebtedness of the City within the meaning of the debt limitation provisions contained in sections 76 and 90 of this Charter or in any other section thereof.

Subdivision 4. (a) To provide money for the acquisition and construction of additions to and extensions and improvements of the waterworks of the City and the reconstruction and replacement of parts of such waterworks and the acquisition of all lands, easements, rights and property necessary for such purposes, the Council may issue, in one issue or in separate issues or series from time to time, under this section, revenue bonds not to exceed \$11,000,000 in total principal amount. All waterworks revenue bonds in excess of said sum of \$11,000,000 shall be authorized by proceedings taken in the manner hereinafter provided in paragraph (b) of this subdivision.

(b) Except as provided in paragraph (a) of this subdivision, revenue bonds payable from revenues of the Water Department may be authorized only in the manner provided in this paragraph (b).

The first step in the proceedings shall be a recommendation by the City Manager, which recommendation shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof and his recommendation that revenue bonds be issued hereunder. Such recommendation need not be in any particular form.

After the recommendation by the City Manager has been received by the Council it may adopt an ordinance finding the need for the issuance of revenue bonds under this section in the amount and for the purposes set forth in the recommendation of the City Manager. The Council, by said ordinance, shall submit to the qualified voters of the City, at an election held for that purpose, the question of issuing revenue bonds pursuant to this section to provide moneys for the purposes stated in the recommendation of the City Manager.

The Council, by a vote of two-thirds of the members thereof, may adopt a resolution stating that it determines to proceed under this section without a recommendation by the City Manager and in that case such resolution shall constitute the first step in the proceeding. Any such resolution also shall state generally the purposes of the proposed revenue

bond issue and the principal amount thereof, and in the event such resolution is adopted no recommendation of the City Manager shall be required and the ordinance calling the election shall find the need for the issuance of revenue bonds under this section in the amount and for the purposes stated in such resolution. In the event the Council adopts a resolution to proceed without the recommendation by the City Manager, the ordinance calling the election may be adopted only by a vote of at least two-thirds of the members of the Council and at a meeting subsequent to that at which the resolution was adopted.

The ordinance calling the election shall:

- (a) state the purposes for which the bonds are to be issued;
- (b) state the principal amount of the bonds;
- (c) state the maximum rate of interest on the bonds, which shall not exceed six per cent per annum, payable semiannually;
- (d) call the election and fix the election date;
- (e) fix the manner of holding the election;
- (f) fix the manner of voting for or against the issuance of the bonds.

In all particulars not stated in said ordinance the election shall be held and the votes canvassed in the manner provided by law for general municipal elections in the City.

Any special election called for the purpose of voting upon a proposition of issuing bonds under this section may be consolidated with any municipal primary election or any general City election or any other election at which all of the qualified voters residing within the City are entitled to vote. Such consolidation may be made in any manner authorized under the Elections Code of the State of California or under the Elections Code of the City.

The ordinance shall be published once a week for two succeeding weeks in the official newspaper of the City, the first publication to be at least 21 days prior to the election. No other notice of such election need be given. If a majority of the voters voting on the proposition of issuing the bonds vote in favor of the issuance thereof bonds in an amount not exceeding the amount stated in the ordinance calling the election may be issued.

No error, irregularity or omission in the election or in any of the proceedings prior thereto which does not affect the substantial rights of the electors of the City or the voters voting at the election at which any

revenue bonds are authorized under this section shall invalidate the election.

Subdivision 5. (a) The Council may issue all bonds authorized at an election or all bonds authorized under paragraph (a) of subdivision 4 of this section in one issue or may divide the principal amount thereof into two or more series and fix different dates of issuance and maturities for the bonds of each series. The Council shall provide for any issue or series of bonds (if issued in series) by ordinance. The Council shall in said ordinance fix the date of issuance and the dates of maturity of each issue or series of bonds; provided, however, that no bond shall run more than 40 years from its date. Any ordinance providing for the issuance of bonds hereunder shall recite the objects and purposes for which the bonds are to be issued, the principal amount of the bonds to be issued pursuant to such ordinance, and the maximum rate of interest to be payable thereon, not to exceed six per cent per annum, payable semiannually.

(b) Said bonds shall be issued in negotiable form and shall be negotiable. The recitals of regularity of proceedings in any revenue bond issued and sold under this section shall be conclusive evidence of compliance with the provisions of this Charter and of the validity of such bond and no bona fide purchaser of such bond containing the recital permitted by this section shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceedings required prior to the actual issuance and delivery of said bonds or to the application of the purchase price paid for said bonds.

Subdivision 6. In any ordinance providing for the issuance of revenue bonds under this section the Council may fix the terms and conditions thereof (including covenants) and may in any article, section, sentence or clause thereof make such provision (including covenant) as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders thereof, including, without affecting the generality of the foregoing, any or all of the following:

(a) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, which may be within or without the State of California, the form of said bonds (including recitals of regularity) and of interest coupons pertaining thereto, the form, denomination and conditions of any temporary bonds or interim certificates (which temporary bonds or interim certificates may be issued without interest coupons), and the manual (one signature must be manual) and facsimile signatures to be affixed to said bonds (definitive or temporary) or interim

certificates, and the facsimile signature to be affixed to interest coupons;

(b) Provisions for the call and redemption prior to maturity of any part of or all of said bonds and the premiums to be paid upon such call and redemption;

(c) Said bonds shall be designated "Waterworks Revenue Bonds" and each bond shall state on its face that it does not constitute an indebtedness of The City of San Diego but is an obligation payable, principal and interest, and premiums, if any, upon the redemption thereof, only from a special fund which shall consist of such revenues of the Water Department as are in excess of the amount needed to operate and maintain the Water Department; provided, however, that the foregoing statement shall not preclude the payment or the redemption of said bonds from the proceeds of refunding bonds or the payment thereof from premium and accrued interest obtained upon the sale of the bonds. Such special fund is presently designated and is sometimes hereinafter in this section called the Water Department Revenue Bond Fund;

(d) Covenants relating to rates for the use of water or for services from the waterworks system. Such rates and charges for the use of water or service from the waterworks system shall provide revenues at least sufficient to pay, as the same shall become due, principal of and interest on all outstanding revenue bonds payable out of the revenues of the Water Department, including premiums, if any, due upon the redemption of any thereof (and including all payments required to be made into reserve and sinking funds, if any, for said revenue bonds or any thereof), and all other obligations and indebtedness payable out of said revenues, in addition to paying, as the same shall become due, the necessary expenses of operating and maintaining the Water Department;

(e) Covenants relating to the extent to which such services may be furnished or rendered to the City or to any government, department of government, public corporation or body free or at lower rates than otherwise charged;

(f) The collection, deposit and safekeeping of the revenues, and the permissible uses thereof;

(g) The construction fund into which the principal sums from the sale of the bonds shall be placed, the special fund or funds to be established and maintained for the payment of principal and interest of the bonds, including reserve, sinking, bond service, redemption, and trust funds, and any revenue bond payable from the Water Department Revenue Bond Fund may be paid from any such special fund established therefor; the permissible investments of

moneys in said funds, or any thereof, the accounts and records to be kept, audits thereof and examination of such audits by bondholders and others; (h) Carrying of insurance upon the waterworks or any part of the waterworks system or property against any or all risks, and in case of loss the application of the insurance proceeds;

(i) Prohibition against or limitations upon the sale, lease or other disposition or transfer of the waterworks of the City or any substantial part thereof, and the use of any funds derived from any sale, lease or other disposition or transfer permitted under the terms of such ordinance;

(j) Limitations upon the issuance of any additional bonds payable out of the revenues of the Water Department, but no bonds shall be issued pursuant to this section or under any other provision of the Charter or any other law having any priority in payment of principal or interest out of the revenues of the Water Department over any revenue bonds theretofore or thereafter issued and payable out of such revenues;

(k) Provisions whereby the consent or agreement of a stated percentage or number of the holders of the bonds may bind all holders to modifications of such provisions of the ordinance, resolution or order authorizing or providing for the issuance of such bonds or the sale thereof as may be stated in such ordinance or to a refunding of said bonds and to calls or exchanges in connection with such refunding;

(l) For the issuance of a duplicate in the manner and upon such terms and conditions as the Council may determine, in the event any bond, temporary bond, coupon or interim certificate of any such issue is lost, destroyed or mutilated;

(m) Any other provision (including covenant) valid under the Constitutions of the State of California and the United States of America.

Subdivision 7. Any ordinance providing for the issuance of any revenue bonds under this section and all other ordinances, resolutions or orders in the proceeding for the issuance of said bonds shall constitute a contract with the holders of the bonds and may be enforced by any holder by mandamus, injunction or any other applicable legal action, suit, proceeding or other remedy.

Subdivision 8. Bonds issued under this section shall be sold only at public sale following such notice as the Council, by order or resolution, may prescribe; provided, however, that if no bid is received or if the bid or bids received are not satisfactory the Council may reject all bids received, if any, and may thereafter sell such bonds at public or private sale; pro-

vided, further, that the provisions of this subdivision shall not apply to the exchange of any refunding bonds for outstanding bonds. Any revenue bonds issued hereunder may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds, but no rate of interest on any of the bonds shall exceed six per cent per annum, payable semiannually. If the bidders are invited to state the interest rate or rates, then upon the acceptance of a bid the Council shall by resolution or order, which shall not be subject to referendum, fix such interest rate or rates as have been bid by the successful bidder as the rate or rates of interest on bonds sold. Said bonds shall be sold for not less than par and accrued interest to date of delivery.

Subdivision 9. The proceeds from the sale of bonds issued hereunder (except premium and accrued interest which shall be paid into the bond service or other fund designated or established for the payment of principal and interest of the bonds) shall be paid into the construction fund designated by the ordinance providing for the issuance of said bonds and shall be applied exclusively to the objects and purposes set forth in such ordinance; provided, however, (1) that the Water Department Revenue Bond Fund from which the bonds are payable may be reimbursed from such proceeds for expenditures for purposes for which the bonds were issued made from such fund after the issuance of the bonds has been authorized at the election thereon, (2) that said proceeds may be used for the payment of interest on said bonds during the period of acquisition and construction and for the first six months thereafter; and (3) that when the objects and purposes for which the bonds are issued have been accomplished any remaining unexpended funds derived from the sale of the bonds shall be used for the payment of principal and interest of said revenue bonds or for the redemption of any callable bonds thereof.

Subdivision 10. Refunding revenue bonds may be issued for the payment or redemption of any revenue bonds issued pursuant to this section and such refunding bonds may be issued in principal amount sufficient to refund the outstanding bonds proposed to be refunded thereby, including payment of accrued interest and of any premiums thereon and all expenses of such refunding. Refunding revenue bonds shall be authorized, issued and sold substantially in the manner provided for the issuance and sale of other revenue bonds hereunder or may be exchanged for the outstanding bonds to be refunded upon such terms and conditions as may be stated in the ordinance authorizing such refunding bonds, except that no election shall be necessary to authorize the issuance of refunding bonds hereunder.

Subdivision 11. To the extent that any provision of

any ordinance authorizing the issuance of revenue bonds pursuant to this section or any provision of any ordinance, resolution or order pertaining to such revenue bonds adopted pursuant to the authority of this section is inconsistent with any of the provisions of any other section of this charter the provisions of such ordinance, resolution or order shall control so long as any of the bonds or coupons to which the same pertain are outstanding and unpaid. No bond shall be deemed to be outstanding and unpaid within the meaning of this section if moneys for the purpose of paying the same or redeeming the same prior to maturity and sufficient therefor have been irrevocably set aside in a bond service fund, sinking fund, redemption fund, or other trust fund created to insure the payment or redemption thereof.

The Council is authorized to take any and all steps and proceedings necessary or convenient for the authorization, issuance and sale of revenue bonds under this section and for the payment or redemption thereof.

*(Addition voted 11-2-54; effective 1-10-55.)
(Amendment voted 6-3-58; effective 2-19-59.)*

SECTION 90.2 SEWER.

Unless the context otherwise requires, the definitions contained in this section shall govern the construction thereof.

"This section" as used in this section means this Section 90.2.

"City" means The City of San Diego.

"Council" means the Council of The City of San Diego.

"Bond" or "bonds" means sewer revenue bonds issued hereunder payable from the Sewer Revenue Fund.

"Sewer" or "sewers" as used in this section means sanitary sewers of the City.

"Sewer system" as used in this section means all sanitary sewers, sewer works, sewage treatment and disposal works and facilities of the city for the collection, transmission, treatment or disposal of sewage and comprises the entire system of sewers and sewer works and facilities of the city and includes all parts thereof, whether physically connected to other parts of the system or otherwise, and shall include all additions thereto, whether physically connected to other parts of the system or otherwise, and all extensions and improvements of the sewer system or any part thereof. Nothing herein shall preclude the construction of facilities for the

reclamation of water from sewage in the sewer system and the city may at any time determine whether such facilities or any portion thereof shall be constructed and operated as a part of the sewer system or as a part of the water system, or otherwise.

"Sewer service charges" as used in this section means charges, fees, tolls, rates and rentals established or imposed by the city for service by or for the use of the sewer system or any part thereof.

"Revenues" as used in this section means all sewer service charges received, and any sums received by the city from other cities, districts or public corporations (including the United States of America and the State of California) under contracts providing for the transmission, treatment or disposal of sewage from such other cities, districts or public corporations through or by means of the sewer system or any part thereof, and all other income and revenue derived by the city from the operation of the "sewer system" or any part thereof. "Revenues" shall not be construed to include taxes or assessments levied by the city.

"Sewer Revenue Fund" as used in this section means the Sewer Revenue Fund heretofore established into which revenues from the sewer system have been paid, and said fund has been, is and shall be derived from "revenues."

Subsection 1. Revenue bonds to provide money for the acquisition and construction of sewer mains, interceptor sewers, pumping plants, trunk sewers, outfall sewers, sewer works, sewage treatment plants, works and facilities, and sewage disposal works or facilities which will be additions to, extensions and improvements of the sewer system, and for the reconstruction or replacement of parts of the sewer system, including all necessary equipment, appurtenances and appurtenant work and the acquisition of all lands, easements and property necessary therefor and for facilities for the reclamation of water from sewage in the sewer system (if such reclamation facilities are to be constructed and operated as a part of the sewer system) may be issued as provided in this section. Any issue of revenue bonds may be for any or all of said purposes. To any extent necessary or convenient, any of the sewers, plants, works or facilities or any part thereof may be located outside the city.

Subdivision A. Revenue bonds issued under this section shall not constitute an indebtedness of the city but shall constitute obligations which shall be payable, principal and interest, and any premiums upon the redemption thereof prior to maturity, only from the Sewer Revenue Fund; provided, however, that this shall not preclude the payment or redemption thereof from the proceeds of refunding bonds

issued to refund said revenue bonds, or the use of accrued interest and premiums paid upon the sale and delivery of the revenue bonds for the payment of principal thereof or interest thereon, or the payment out of the proceeds of any bonds of the whole or a part of the interest accruing on said bonds during the period of acquisition and construction of the work to be paid for out of such proceeds and for the first six months thereafter.

Subdivision B. Refunding revenue bonds for the purpose of refunding any revenue bonds issued under this section may be issued as provided in this section and shall be payable from the Sewer Revenue Fund. No restriction or limitations upon or procedure for the issuance of bonds in other sections of this charter shall apply to revenue bonds issued under this section (including refunding revenue bonds) and this section shall constitute complete authority for the issuance of such revenue bonds (including such refunding revenue bonds) and any action or proceeding not required by this section shall not be necessary for the valid authorization and issuance of such revenue bonds. No revenue bond issued under this section or any interest payable thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the city or any other revenues of said city except such revenues as are required under the provisions of this section to be paid into the Sewer Revenue Fund.

Subdivision C. The limitations upon bonded indebtedness of The City of San Diego contained in Sections 76 and 90 of this charter or in any other section or provision thereof shall not apply to revenue bonds issued under this section or under any provisions of this charter or under any general law of the State of California where such revenue bonds are payable exclusively from a special fund derived from revenues obtained from any public utility or improvement of the city and are not payable from taxes levied by the city and such revenue bonds shall not be deemed indebtedness of the city within the meaning of the debt limitation provisions contained in Sections 76 and 90 of this charter or in any other section thereof.

Subsection 2. To provide money for the purpose of the acquisition and construction of sewer mains, interceptor sewers, pumping plants, trunk sewers, outfall sewer, sewer works, sewage treatment plant, works and facilities, sewage disposal works and facilities and submarine ocean outfall sewer, which will be additions to, extensions and improvements of the sewer system, including for the foregoing all necessary equipment, appurtenances and appurtenant work and including the acquisition of all lands, easements and property necessary therefor, and including reconstruction or replacement of parts of sewers and reconstruction of sewer facilities neces-

sary for any of the foregoing, the Council is hereby authorized to issue, in one issue or in separate issues or series from time to time, under this section, revenue bonds in total principal amount not to exceed \$42,500,000. The maximum rate of interest on said bonds shall not exceed six per cent per annum, payable semiannually. Revenue bonds, if any, issued under this section in excess of said sum of \$42,500,000 shall be authorized by proceedings taken in the manner hereinafter provided under Subsection 3.

Subsection 3. Except as provided in Subsection 2 above and except refunding sewer revenue bonds, revenue bonds payable from the Sewer Revenue Fund shall be authorized in the manner provided in this Subsection 3.

The first step in the proceedings shall be a recommendation by the City Manager that bonds be issued hereunder, which recommendation shall state generally the purposes of the revenue bond issue and the principal amount thereof. Such recommendation need not be in any particular form. After the recommendation by the City Manager has been received by the Council it may adopt an ordinance finding the need for the issuance of revenue bonds under this section for the purposes set forth in the recommendation of the City Manager. The Council, by said ordinance, shall submit to the qualified voters of the city at an election held for that purpose the question of issuing revenue bonds pursuant to this section to provide moneys for the purposes stated in the recommendation of the City Manager.

The Council, by a vote of two-thirds of the members thereof, may adopt a resolution stating that it determines to proceed under this section without a recommendation by the City Manager. Any such resolution also shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof and in the event such resolution is adopted the recommendation of the City Manager shall not be required and the ordinance shall find the need for the issuance of revenue bonds under this section for the purposes stated in the resolution and the purposes stated in the proposition submitted to the qualified voters of the city shall be the purposes stated in such resolution. In the event the Council adopts a resolution to proceed without the recommendation by the City Manager, the ordinance calling the election may be adopted only by a vote of at least two-thirds of the members of the Council and at a meeting subsequent to that at which the resolution was adopted.

Subdivision A. The ordinance calling the election also shall:

(1) state the purposes for which the bonds are proposed to be issued;

- (2) state the principal amount of the bonds;
- (3) state the maximum rate of interest on the bonds, which shall not exceed six per cent per annum, payable semiannually;
- (4) call the election and fix the election date;
- (5) fix the manner of holding the election;
- (6) fix the manner of voting for or against the issuance of the bonds.

In all particulars not stated in said ordinance the election shall be held and the votes canvassed in the manner provided by law for general municipal elections in the city.

Subdivision B. The proposition shall be submitted at a special election called for that purpose and any special election called for the purpose of voting upon a proposition to issue bonds under this section may be consolidated with any city or other election at which all of the qualified voters residing within the city are entitled to vote. Such consolidation may be made in the manner authorized under the Elections Code of the State of California or under the Elections Code of the city.

Subdivision C. The ordinance shall be published once a week for two succeeding weeks in the official newspaper of the city, the first publication to be at least 21 days prior to the election. No other notice of such election need be given. If a majority of the voters voting on the proposition of issuing the bonds vote in favor of the issuance thereof bonds in an amount not exceeding the amount stated in the ordinance calling the election may be issued.

No error, irregularity or omission in the election or in any of the proceedings prior thereto which does not affect the substantial rights of the people of the city or the electors voting at the election at which any revenue bonds are authorized under this section shall invalidate the election.

Subsection 4. The Council may issue all bonds authorized at an election in one issue or in two or more series and may fix different dates and maturities for the bonds of each series. It may issue all bonds authorized by Subsection 2 hereof in one issue or in two or more issues or series and may fix different dates and maturities for the bonds of each issue or series. The bonds of any issue or series issued under this section may be serial bonds or term bonds or any combination thereof with such maturities as may be determined by the Council, but no bond shall run more than forty (40) years from its date.

Any ordinance providing for the issuance of bonds

hereunder shall recite the objects and purposes for which the bonds are to be issued, fix the principal amount of the bonds to be issued pursuant to such ordinance, the maximum rate of interest to be payable thereon, not to exceed six per cent per annum, payable semiannually, the date of said bonds, and the maturities thereof.

Said bonds shall be issued in negotiable form and shall be negotiable. The recitals of regularity of proceedings in any revenue bond issued and sold under this section shall be conclusive evidence of compliance with the provisions of this section and of the validity of such bonds, and no bona fide purchaser of any such bond containing the recital permitted by this section shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to the actual issuance and delivery of said bonds or to the application of the purchase price paid for said bonds.

Subdivision A. REVENUE BONDS-TERMS AND CONDITION: In any ordinance providing for the issuance of revenue bonds under this section, the Council may fix the terms and conditions thereof (including covenants) and may in any article, section, sentence or clause thereof make such provision (including covenant) as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders thereof, including, without affecting the generality of the foregoing, any or all of the following:

(1) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, which may be within or without the State of California, the form of said bonds (including recital of regularity) and of interest coupons pertaining thereto, the form, denomination and conditions of any temporary bonds or interim certificates, and the manual (one signature must be manual) and facsimile signatures to be affixed to said bonds (definitive or temporary) or interim certificates, and the facsimile signature to be affixed to interest coupons;

(2) The terms and conditions under which said bonds or any part thereof may be paid and redeemed before maturity (including the premiums, if any, payable upon bonds redeemed prior to maturity), exchanged, registered, transferred, or negotiated;

(3) Covenants or provisions relating to rates (called in this section Sewer Service Charges). Such sewer service charges shall be fixed by the Council of said city and, with reasonable allowances for contingencies, must be at least sufficient, together with other revenues, if any, payable into the Sewer Revenue

Fund, to provide revenues sufficient to pay, as the same becomes due, principal and interest of all revenue bonds payable out of said Sewer Revenue Fund (including all payments required to be made into reserve and sinking funds, if any, for said revenue bonds) and all other obligations payable from the Sewer Revenue Fund, and the necessary expenses of maintaining and operating the "sewer system." The ordinance may also state the extent, if any, to which such sewer service may be furnished or rendered to the city free or to the United States of America, the State of California, or to any city or other public corporation or body at lower rates than otherwise charged;

(4) The collection, deposit and safekeeping of the revenues and the permissible uses thereof; provided, however, that the cost of maintenance and operation of the sewer system (and only such cost) shall be payable from the Sewer Revenue Fund prior to the payment of principal and interest of the revenue bonds or the setting aside in the bond service, sinking, redemption, reserve, or other fund, monthly or otherwise, of funds therefor;

(5) The special fund or funds to be established and maintained for the payment of principal and interest of the bonds; including reserve, sinking, bond service, redemption, and trust funds, and any revenue bond payable from the Sewer Revenue Fund may be paid from any such special fund set up therefor; the permissible investments of moneys in said funds, or any thereof; the accounts and records to be kept, audits thereof and examination thereof by bondholders and others;

(6) Carrying of insurance upon any sewers, sewage treatment plant or plants or sewage disposal works against any or all risks, and in case of loss the application of the insurance proceeds;

(7) Prohibition against or limitations upon the sale, lease or other disposition or transfer of the sewer system or any substantial part thereof, and the use of any funds derived from any sale, lease or other disposition or transfer permitted under the terms of said ordinance;

(8) Limitations upon the issuance of any additional bonds payable from the Sewer Revenue Fund, but no bond shall be issued pursuant to this section or under any other provision of this charter or any other law having any priority in payment of principal or interest out of such fund or out of any revenues payable into such fund over any revenue bonds theretofore issued and payable out of said fund;

(9) Provisions whereby the consent or agreement of a stated percentage or number of the holders of the bonds may bind all holders to modifications of pro-

visions of any ordinance, resolution or order authorizing or providing for the issuance of such bonds or the sale thereof, or to a refunding of said bonds and to calls or exchanges in connection with such refunding;

(10) For the issuance of a duplicate in the manner and upon such terms and conditions as the Council may determine, in the event any bond, temporary bond, coupon or interim certificate of any such issue is lost, destroyed or mutilated;

(11) Any other provision (including covenant) valid under the Constitution of the State of California and the United States of America.

Such ordinance shall be subject to referendum in the manner that other ordinances of the City are subject to referendum.

Any ordinance providing for the issuance of any revenue bonds under this section and all other ordinances, resolutions or orders in the proceeding for the issuance of said bonds shall constitute a contract with the holders of the bonds and may be enforced by any holder by mandamus, injunction or any applicable legal action, suit, proceeding or other remedy.

Subsection 5. LIMITATIONS. Revenue bonds issued under this section shall be issued substantially in compliance with the following limitations:

(a) No bond shall run more than forty years from its date;

(b) Said bonds shall be designated "Sewer Revenue Bonds" and each bond shall state on its face that it does not constitute an indebtedness of the City but is an obligation payable, principal and interest, and premiums, if any, upon the redemption thereof only from the Sewer Revenue Fund. Such statement shall not preclude the payment or redemption thereof from the funds or moneys specified in Subdivision A of Subsection 1;

(c) Said bonds shall be sold only at public sale following such notice as the Council by resolution or order may prescribe; provided, however, that if no bid or no satisfactory bid is received pursuant to such notice the Council may reject all bids received, if any, and may thereafter sell such bonds at public or private sale; provided, further, that the provisions of this subsection shall not apply to the exchange of any refunding bonds for outstanding bonds. Any such revenue bonds may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds, but no rate of interest on any of the bonds shall exceed the maximum rate stated in the ordinance calling the election to vote upon the issu-

ance of said bonds or as to bonds authorized by Subsection 2 hereof the maximum rate stated in said Subsection 2. If the bidders are invited to state the interest rate or rates, then upon the acceptance of a bid the Council shall by resolution or order, which shall not be subject to referendum, fix such interest rate or rates as have been bid by the successful bidder as the rate or rates of interest on the bonds sold;

(d) Said bonds shall be sold for not less than par and accrued interest to date of delivery. The proceeds from the sale (except premium and accrued interest which shall be paid into the bond service or other fund designated or established for the payment of principal and interest of the bonds) shall be paid into the construction fund designated by the ordinance providing for issuance of such bonds and shall be applied exclusively to the objects and purposes set forth in such ordinance; provided, however, (1) that the Sewer Revenue Fund from which the bonds are payable may be reimbursed from such proceeds for expenditures for purposes for which the bonds were issued made from such Sewer Revenue Fund after the issuance of the bonds has been authorized by the voters or as to bonds authorized by Subsection 2 hereof, after the date this amendment becomes effective; (2) that said proceeds may be used for the payment of interest on said bonds during the period of acquisition and construction and for the first six months thereafter; and (3) that when the objects and purposes for which the bonds are issued have been accomplished any remaining unexpended funds derived from the sale of said bonds shall be used for the payment of principal and interest of said revenue bonds or for the redemption of any callable bonds thereof.

Subsection 6. Refunding revenue bonds payable from the Sewer Revenue Fund may be issued for the payment or redemption of any revenue bonds, issued pursuant to this section and such refunding bonds may be issued in principal amount sufficient to refund the outstanding bonds proposed to be refunded thereby, including payment of interest to maturity on any noncallable bonds to be refunded and of accrued interest to date of redemption and of any premiums payable upon redemption of bonds which by their terms are subject to call and redemption prior to maturity, and all expenses of such refunding. Refunding revenue bonds may be authorized, issued and sold substantially in the manner provided for the issuance and sale of other revenue bonds hereunder or may be exchanged for the outstanding bonds to be refunded upon such terms and conditions as may be stated in the ordinance authorizing such refunding bonds, except that no election shall be necessary to authorize the issuance of refunding bonds hereunder and the first step in the proceeding shall be the ordinance of issuance. The ordinance providing for the issuance of refunding

bonds shall be subject to referendum in the same manner as other ordinances of the city.

Subsection 7. To the extent that any provision of any ordinance authorizing the issuance of revenue bonds pursuant to this section or any provision of any ordinance, resolution or order pertaining to such revenue bonds adopted pursuant to the authority of this section is inconsistent with any of the provisions of any other section of this charter the provisions of such ordinance, resolution or order shall control so long as any of the bonds or coupons to which the same pertain are outstanding and unpaid. No bond shall be deemed to be outstanding and unpaid within the meaning of this section if moneys for the purpose of paying the same or redeeming the same prior to maturity and sufficient therefor have been irrevocably set aside in a bond service fund, sinking fund, redemption fund, or other trust fund created to insure the payment or redemption thereof.

The Council is authorized to take any and all steps necessary or convenient for the authorization, issuance and sale of revenue bonds under this section and for the payment or redemption thereof.

Subsection 8. Subdivision A. The Council may at any time establish and provide for the collection of sewer service charges and must establish and provide for the collection of such sewer service charges as are required by any ordinance providing for the issuance of revenue bonds under this section. Sewer service charges shall not be deemed taxes or assessments within the meaning of any section of this charter and shall not be enforceable by any lien upon real property. "Sewer service charges" may be collected with water rates, fees or charges (herein called "water rates") of The City of San Diego. The Council may provide and covenant that where the city furnishes water to the property receiving sewer service the sewer service charges shall be collected with and not separately from the water rates of said city and that all charges shall be billed upon the same bill and collected as one item and may also provide and covenant that in the event of nonpayment of any part of the bill for the sewer service charge and water rate, the water service shall be shut off within such time as may be or shall have been prescribed by the Council. Delinquent sewer service charges may be collected by suit in any court of competent jurisdiction. The Council may provide additional methods of collecting sewer service charges. The Council also may prescribe and establish penalties for the nonpayment of sewer service charges. The Council may take any and all steps to establish and provide for the collection of sewer service charges.

Subdivision B. All revenues shall be paid into the Sewer Revenue Fund and shall be used only for the

following purposes: (1) paying the cost of maintenance and operation of the sewer system; (2) paying principal and interest (including payments into any reserve or sinking fund) and premiums, if any, upon redemption, of sewer revenue bonds issued under this section and payable from said Sewer Revenue Fund; (3) paying all or any part of the cost and expense of extending, reconstructing or improving the sewer system or any part thereof or making additions to such system; (4) transferring from any surplus in the Sewer Revenue Fund to the Capital Outlays Fund, at one time or from time to time, all or any part of the sums expended from said Capital Outlays Fund after July 1, 1960, for any purpose for which revenue bonds may be issued under this section; (5) paying from any surplus in the Sewer Revenue Fund principal or interest, or both, or any part thereof, of general obligation bonds heretofore or hereafter issued for any purpose for which revenue bonds may be issued under this section.

Any ordinance providing for the issuance of revenue bonds hereunder may contain covenants defining, limiting or restricting the use of moneys in said Sewer Revenue Fund and said covenants shall control so long as any bonds issued under said ordinance are outstanding and unpaid within the meaning of this section.

Subdivision C. Interest (including interest on investments) on the Sewer Revenue Fund or on any fund created by or under the authority of this section shall be credited to the particular fund.

Subsection 9. Subdivision A. The City may issue general obligation bonds for sewer purposes. General obligation bonds of the city may also be issued to refund any revenue bonds, principal, interest and premium, if any, issued under this section, if authorized by a two-thirds vote of the qualified electors of the city voting upon the question of the issuance thereof at an election called and held for that purpose. Such election may be called by ordinance in the same manner as any other special election is called under the charter of the city.

The city may expend funds derived from taxes for the acquisition and construction of sewers, and to the extent that may legally be done under this section may expend funds derived from taxes for the maintenance and operation of sewers, but no funds derived from taxes shall be considered revenues as in this section defined and no such funds derived from taxes shall be paid into the Sewer Revenue Fund and no revenue bond issued under this section or any interest thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the city.

Subdivision B. The city may levy special assessments

for the acquisition and construction of sewers or sewer works and such assessments shall not be construed as "revenues" as defined in this section and shall not be paid into the Sewer Revenue Fund.

Nothing in this section shall be construed to restrict the power of the city to consent to the formation or organization of special districts for the purpose of collection, transmission, treatment or disposal of sewage within portions of the city which are not at that time served by the city sewer system and which in the opinion of the Council cannot conveniently be served by or through the city sewer system. Before any such district is formed or organized which includes territory of the city therein the consent of the city to the inclusion therein of such territory shall be manifested by ordinance of the Council. The Council shall have authority to provide reasonable terms and conditions under which the portion of the city may be included in said district and upon which the district may operate its facilities within The City of San Diego.

Nothing in this section shall be construed as implying any doubt of the power of the city to establish and collect service charges for service by or for the use of sewers under its general charter powers.

Subsection 10. This section and every part thereof shall be liberally construed to promote the objects thereof and to carry out its intents and purposes.

If the application of any subsection, subdivision, paragraph, sentence, clause or word of this section to any person or circumstance is held invalid the application of such subsection, subdivision, paragraph, sentence, clause or word to any other person or in any other circumstance shall not be affected thereby. If any part of this section is held invalid the remainder of the section shall remain in full force and effect.

*(Addition voted 6-5-56; effective 1-10-57.)
(Amendment voted 11-8-60; effective 1-9-61.)*

SECTION 91. GENERAL RESERVE FUND.

The Council shall create and maintain a permanent revolving fund, to be known as the General Reserve Fund, for the purpose of keeping the payment of the running expenses of the City on a cash basis. Said fund shall be maintained in an amount sufficient to meet all legal demands against the treasury for the first four months or other necessary period of each fiscal year prior to the collection of taxes. This fund may be expended only in the event of a public emergency when it shall be determined by the affirmative vote of at least two-thirds of the members elected to the Council that such expenditures are necessary in order to insure the safety and lives and

property of the City or its inhabitants.

(Amendment voted 11-6-62; effective 1-21-63.)

SECTION 92. BORROWING MONEY ON SHORT TERM NOTES.

Bonds or notes may be issued in anticipation of the collection of special assessments, and bonds, notes, or registered warrants on the treasury may be issued in anticipation of the collection of taxes, as authorized by the City Council by resolution and shall not be deemed the creation of debt within the meaning of Section 90 of this Article. Bonds, notes or registered warrants on the treasury issued in anticipation of the collection of the taxes of any fiscal year may be issued during each fiscal year and each such bond, note, or warrant shall specify that it is payable out of the taxes of the fiscal year in which issued, and before the close of such year, and shall not bear a higher rate of interest than the maximum rate established by Council Resolution within the legal limit, and the total amount of such bonds, notes or warrants, authorized and issued in any fiscal year shall not, in the aggregate, be more than twenty-five (25) per cent of the total appropriations of the City for such year. Nothing herein contained shall be construed to authorize the incurring of an obligation against the municipality in excess of that authorized to be incurred by the Constitution of the State of California.

(Amendment voted 11-6-62; effective 1-21-63.)

(Amendment voted 9-21-65; effective 2-10-66.)

(Amendment voted 6-3-80; effective 7-16-80.)

SECTION 93. LOANS AND ADVANCES.

The City Council may from time to time authorize the advance of moneys in the treasury as a temporary loan to any tax-supported fund, which loan shall be repaid from the first property taxes received thereafter; provided, however, that such temporary loans shall not exceed the current property taxes receivable. It shall be lawful from time to time to advance money in the General Fund to any bond fund or to use any money in the General Fund for any purpose for which a loan shall have been authorized and bonds actually voted but not yet issued and sold, and the City officials need not sell said bonds until it is necessary to repay the General Fund advances or to replenish such loan fund or funds. The credit of the City shall not be given or loaned to or in aid of any individual, association or corporation; except that suitable provision may be made for the aid and support of the poor.

(Amendment voted 11-6-62; effective 1-21-63.)

SECTION 94. CONTRACTS.

In the construction, reconstruction or repair of public buildings, streets, utilities and other public works, when the expenditure therefor shall exceed the sum established by ordinance of the City Council, the same shall be done by written contract, except as otherwise provided in this Charter, and the Council, on the recommendation of the Manager or the head of the Department in charge if not under the Manager's jurisdiction, shall let the same to the lowest responsible and reliable bidder, not less than ten days after advertising for one day in the official newspaper of the City for sealed proposals for the work contemplated. If the cost of said public contract work is of a lesser amount than the figure established by ordinance of the City Council, the Manager may let said contract without advertising for bids, but not until the Purchasing Agent of the City shall have secured competitive prices from contractors interested, which shall be taken under consideration before said contract is let. The Council may, however, establish by ordinance an amount below which the Manager may order the performance of any construction, reconstruction or repair work by appropriate City forces without approval by Council. When such Council approval is required, the Manager's recommendation shall indicate justification for the use of City forces and shall indicate whether the work can be done by City forces more economically than if let by contract.

In case of a great public calamity, such as extraordinary fire, flood, storm, epidemic or other disaster the Council may, by resolution passed by a vote of two-thirds of the members elected to the Council, determine and declare that the public interest or necessity demands the immediate expenditure of public money to safeguard life, health or property, and thereupon they may proceed, without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of any sum required in such emergency, on hand in the City treasury and available for such purpose. All contracts before execution shall be approved as to form and legality by the City Attorney.

Each bidder shall furnish with his bid such security or deposit insuring the execution of the contract by him as shall be specified by the Council or as provided by general law.

For contracts exceeding \$25,000.00, the Council shall require each contractor to insure the faithful performance of his contract by delivering to the City a surety bond in an amount specified by the Council, executed by a surety company authorized to do business in the State of California; provided, however, that in all contracts the Council shall require the retention of sufficient payments, under the contract to insure the protection of the City against

labor or material liens.

The Council, on the recommendation of the Manager, or the Head of the Department not under the jurisdiction of the Manager, may reject any and all bids and readvertise for bids. The Council may provide that no contract shall be awarded to any person, firm or corporation if prison or alien labor is to be employed in performing such contract, or if the wage schedule for employees engaged in performing such contract is based on more than eight hours of labor per day. Any contract may be let for a gross price or on a unit basis and may provide for liquidated damages to the City for every day the contract is uncompleted beyond a specified date. It shall be competent in awarding any contract to compare bids on the basis of time completion, provided that when any award has been made in consideration, in whole or in part, of the relative time estimates of bidders for the completion of the work, the performance in accordance with such time limits shall be secured by a surety bond as hereinabove provided with adequate sureties and penalties, and provided further, that for any contract awarded solely or partially on a specified time for completion the Council shall not extend such time limits unless such extension be recommended by the Manager and the Head of the Department concerned.

No officer, whether elected or appointed, of The City of San Diego shall be or become directly or indirectly interested in, or in the performance of, any contract with or for The City of San Diego, or in the purchase or lease of any property, real or personal, belonging to or taken by said City or which shall be sold for taxes or assessments or by virtue of legal process or suit of said City. Any person wilfully violating this section of the Charter shall be guilty of a misdemeanor and shall immediately forfeit his office and be thereafter forever barred and disqualified from holding any elective or appointive office in the service of the City. No officer, whether elected or appointed, shall be construed to have an interest within the meaning of this section unless the contract, purchase, lease, or sale shall be with or for the benefit of the office, board, department, bureau or division with which said officer is directly connected in the performance of his duties and in which he or the office, board, department, bureau or division he represents exercises legislative, administrative or quasi-judicial authority in the letting of or performance under said contract, purchase, lease or sale.

All contracts entered into in violation of this Section shall be void and shall not be enforceable against said City; provided, however, that officers of this municipality may own stock in public utility service corporations and the City permitted to contract for public utility service when the rates for such service are fixed by law or by virtue of the Public Utilities Commission of the State of California; and provided further, that no officer shall be prohibited from

purchasing the services of any utility whether publicly or privately owned, whether or not the rates are fixed by law or by the Public Utilities Commission of the State of California; and provided further, that in designating any bank as a depository for the funds of said City, any officer interested as a stockholder or otherwise in such bank shall not be deemed to have an interest in such City contract within the meaning of this section, and in each of the cases enumerated herein such contracts shall be valid and enforceable obligations against the municipality.

*(Amendment voted 3-13-45; effective 4-9-45.)
 (Amendment voted 3-11-47; effective 3-24-47.)
 (Amendment voted 3-10-53; effective 4-20-53.)
 (Amendment voted 9-17-63; effective 2-11-64.)
 (Amendment voted 11-4-75; effective 12-1-75.)
 (Amendment voted 11-2-76; effective 1-12-77.)
 (Amendment voted 9-20-77; effective 11-18-77.)*

SECTION 95. PREFERENCE IN ACCEPTING BIDS.

*(Amendment voted 4-22-41; effective 5-8-41.)
 (Repeal voted 9-21-65; effective 2-10-66.)*

SECTION 96. PROGRESSIVE PAYMENTS.

*(Amendment voted 3-23-37; effective 4-14-37.)
 (Repeal voted 9-17-63; effective 2-11-64.)*

SECTION 97. COLLUSION IN BIDDING.

If at any time it shall be found that any party or parties to whom a contract has been awarded has, in presenting any bid or bids, been guilty of collusion with any party or parties in the submission of any bid or for the purpose of preventing any other bid being made, then the contracts so awarded may be declared null and void by the Council and the Council shall thereupon re-advertise for new bids for said work or the incomplete portion thereof. The Council shall debar from future bidding all persons or firms found to be in violation of this Section, or any future firm in which such person is financially interested.

SECTION 98. ALTERATION IN CONTRACTS.

Whenever it becomes necessary in the opinion of the City Manager to make alterations in any contract entered into by the City, such alterations shall be made only when authorized by the Council upon written recommendation of the Manager, whenever the cost of such alterations increases the amount of the contract by more than the amount authorized by ordinance passed by the Council. No such altera-

tions, the cost which exceeds the amount authorized by ordinance, shall be valid unless the new price to be paid for any supplies, materials, or work under the altered contract shall have been agreed upon in writing and signed by the contractor and the Manager prior to such authorization by the Council. All other alterations shall be made by agreement in writing between the contractor and the Manager.

*(Amendment voted 6-7-66; effective 6-29-66.)
 (Amendment voted 11-4-75; effective 12-1-75.)*

SECTION 99. CONTINUING CONTRACTS.

The City shall not incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year unless the qualified electors of the City, voting at an election to be held for that purpose, have indicated their assent as then required by the Constitution of the State of California, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the same; provided, however, anything to the contrary herein notwithstanding, when two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when the qualified electors of the City, voting at an election for that purpose have indicated their assent as then required by the Constitution of the State of California, such proposition shall be deemed adopted. No contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a two-thirds' majority vote of the members elected to the Council after holding a public hearing which has been duly noticed in the official City newspaper at least ten days in advance.

*(Amendment voted 4-22-41; effective 5-8-41.)
 (Amendment voted 6-4-68; effective 7-22-68.)*

SECTION 99.1. SPORTS STADIUM.

For the purpose of acquiring, constructing and completing on a site in Mission Valley not to exceed 200 acres and lying westerly of Murphy Canyon Road, northerly of Highway 80 and southerly of Friars Road, and maintaining and operating thereon a coliseum, stadium, sports arena, sports pavilion or other building, or combination thereof, and facilities and appurtenances necessary or convenient there-

for, for holding sports events, athletic contests, contests of skill, exhibitions and spectacles and other public meetings, the City may, in addition to other legal methods, enter into contracts, leases or other agreements not to exceed fifty years with any other public agency or agencies, and the provisions of Sections 80 and 99 of this Charter shall not be applicable thereto.

(Addition voted 11-2-65; effective 2-10-66.)

SECTION 100. NO FAVORITISM IN PUBLIC CONTRACTS.

No officer or employee of the City shall aid or assist a bidder in securing a contract to furnish labor, or material, or supplies at a higher price or rate than that proposed by any other bidder, or shall favor one bidder over another, by giving or withholding information, or shall wilfully mislead any bidder in regard to the character of the material or supplies called for, or shall knowingly accept materials or supplies of a quality inferior to that called for by the contract, or shall knowingly certify to a greater amount of labor performed than has actually been performed, or to the receipt of a greater amount of material or supplies than has actually been received. Any officer or employee found guilty of violation of this Section shall forfeit his position immediately.

SECTION 101. WHEN CONTRACTS AND AGREEMENTS ARE INVALID.

All contracts, agreements or other obligations entered into, all ordinances and resolutions passed, and orders adopted, contrary to the provisions of Sections 97 and 100 of this Article may be declared null and void by the Council and thereupon no contractor whatever shall have any claim or demand against the City thereunder, nor shall the Council or any officer of the City waive or qualify the limitations fixed by such section or fasten upon the municipality any liability whatever; provided that all persons who have heretofore furnished material for and/or performed labor on the job shall be protected by the contractor's surety bonds. Any wilful violation of these Sections on contracts shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of these Sections, with the knowledge, expressed or implied of the person or corporation contracting with the City shall render the contract voidable by the Council.

SECTION 102. CONTINUANCE OF CONTRACTS.

All contracts entered into by the City, or for its

benefit, prior to the taking effect of the Charter, shall continue in full force and effect. All public work begun prior to the taking effect of the Charter shall be continued thereunder. Public improvements for which legislative steps shall have been taken under laws or Charter provisions existing at the time this Charter takes effect may be carried to completion in accordance with the provisions of such existing laws and Charter provisions.

SECTION 103. FRANCHISES.

The Council shall have power to grant to any person, firm or corporation, franchises, and all renewals, extensions and amendments thereof, for the use of any public property under the jurisdiction of the City. Such grants shall be made by ordinance adopted by vote of two-thirds (2/3) of the members of the Council and only after recommendations thereon have been made by the Manager and an opportunity for free and open competition and for public hearings have been given. No ordinance granting a franchise or a renewal, extension or amendment of an existing franchise shall be effective until thirty days after its passage, during which time it shall be subject to the referendum provisions of this Charter. No franchises shall be transferable except with the approval of the Council expressed by ordinance.

*(Amendment voted 4-22-41; effective 5-8-41.)
(Amendment voted 11-4-69; effective 1-29-70.)*

SECTION 103.1. REGULATION OF PUBLIC UTILITIES.

No person, firm or corporation shall establish and operate works for supplying the inhabitants of The City of San Diego with light, water, power, heat, transportation, telephone service, or other means of communication, or establish and carry on any business within said City which is designed to or does furnish services of a public utility nature to the inhabitants of said City, without the consent of said City manifested by ordinance of the Council. The Council shall have power to provide reasonable terms and conditions under which such businesses may be carried on and conducted within The City of San Diego.

(Addition voted 3-10-53; effective 4-20-53.)

SECTION 103.1a ENVIRONMENTAL GROWTH FUND.

There is hereby created a fund in the City Treasury, to be known as the Environmental Growth Fund. Into this fund each year there shall be placed 25

percent of all moneys derived from the revenues accruing to the City from any franchises for the transmission and distribution of gas, electricity and steam within the City of San Diego.

The Environmental Growth Fund shall be used exclusively for the purpose of preserving and enhancing the environment of the City of San Diego in whatever manner is deemed appropriate by the City Council of The City of San Diego; provided, however, that two thirds of the moneys paid into the Environmental Growth Fund shall be used exclusively as debt service for bonds of any nature issued for the acquisition, improvement and maintenance of open space to be used for park or recreational purposes. In connection with the issuance of any general obligation bonds for the acquisition, improvement and maintenance of open space to be used for park or recreational purposes, the Council may pledge up to two-thirds of the Environmental Growth Fund to the payment or security of such general obligation bonds and the interest thereon and may so state in any ordinance calling an election authorizing the issuance of said general obligation bonds. If there are no such bonds outstanding or if two-thirds of the moneys paid into the Environmental Growth Fund exceed the amount necessary to service any outstanding bonds issued for the above purposes in any fiscal year, then in those events, and those events only, the moneys set aside for debt service of said bonds or that portion of said moneys which is not needed for debt service of said bonds, shall be used, if at all, exclusively for the purpose of preserving and enhancing the environment of the City of San Diego in whatever manner is deemed appropriate by the City Council of The City of San Diego.

(Addition voted 6-6-72; effective 8-3-72.)

SECTION 104. TERM AND PLAN OF PURCHASE.

Within six months after this Charter takes effect, copies of all franchises existing at the time shall be deposited with the Manager. The Council shall certify to the existence of such franchises and shall recognize them for periods not longer than the date of expiration on each. The Manager shall keep a public record of all franchises, leases or permits granted for the use of the public property of the City. The Council may fix the term of each new franchise in accordance with the laws of the State of California, provided that any franchise may be terminated by ordinance whenever the City shall determine to acquire by condemnation or otherwise the property of any utility necessary for the welfare of the City, such termination to be effective upon and not before payment of the purchase price for the property to be acquired. The method of determining the

price to be paid for the property so acquired shall be that provided by law affecting the purchase of public utility properties in effect at the time of the purchase or condemnation of such public utility property.

*(Amendment voted 4-22-41; effective 5-8-41.)
(Amendment voted 9-17-63; effective 2-11-64.)*

SECTION 105. RIGHT OF REGULATION.

Plenary control over all primary and secondary uses of its streets and other public places is vested in the City. Franchises may be granted upon such terms, conditions, restrictions or limitations as may be prescribed by ordinance. Every ordinance granting a franchise shall provide that the grantee therein named, as consideration for such grant, shall pay compensation to the City in an amount and in the manner set forth in said ordinance.

*(Amendment voted 4-22-41; effective 5-8-41.)
(Amendment voted 11-7-50; effective 1-13-51.)*

SECTION 106. REVOCABLE PERMITS.

Permits revocable at will of the Council for such minor or temporary utility purposes and privileges as may be specified by general ordinance may be granted or revoked by the Council from time to time in accordance with the terms and conditions prescribed thereby and such permits shall not be deemed to be franchises as the term is used in this Charter. Such general ordinance, however, shall be subject to the same procedure as an ordinance granting a franchise and shall not be passed as an emergency measure.

SECTION 107. OFFICIAL BONDS.

The Council shall determine which officers of the City shall give bonds for the faithful performance of their official duties, and fix the amount of such bonds. Each officer upon entering upon his duties shall deliver to the City a surety bond executed by a reliable surety company authorized to do business in the State of California in the penal sum required, which surety bond shall include other offices of which he may be an ex-officio incumbent, and shall also cover the services of any and all assistants and deputies of said officer. The Council may, however, if it so desires, purchase from a reliable surety company authorized to do business in the State of California a blanket surety bond, which shall insure the faithful performance of the official duties of each officer named therein and fix the amount of each bond for each officer named therein. Each bond or the blanket bond if so purchased shall be approved

by the Council and filed with the City Clerk. The premium of all such bonds shall be paid by the City.

(Amendment voted 4-21-53; effective 5-29-53.)

SECTION 108. FORFEITURE OF OFFICE FOR FRAUD.

Every officer who shall wilfully approve, allow, or pay any demand on the treasury not authorized by law, shall be liable to the City individually and on his official bond, for the amount of the demand so approved, allowed or paid, and shall forfeit such office and be forever debarred and disqualified from holding any position in the service of the City.

SECTION 109. ACCOUNTS OF MUNICIPALLY OWNED UTILITIES.

(Amendment voted 4-22-41; effective 5-8-41.)

(Repeal voted 11-3-64; effective 1-21-65.)

SECTION 110. CLAIMS AGAINST THE CITY.

Whenever it is claimed that The City of San Diego is liable to any person because of injuries suffered by such person, either to person or property, because of negligence of the City or its officers, a verified claim for damages shall be presented in writing and filed with the designated City official of The City of San Diego within one hundred (100) days after the occurrence giving rise to the claim for damages.

Whenever it is claimed that The City of San Diego is obligated to pay money to any person because of contract or by virtue of operation of law, a demand or claim for such money shall be presented in writing and filed with the Auditor and Comptroller of The City of San Diego within one hundred (100) days after the last item of the account or claim has accrued.

Each claim for damages because of tort shall specify the name and address of the claimant, the date and place of the accident and the extent of the injuries or damages received.

Each claim or demand for money due because of contract or operation of law shall specify the name and address of the claimant, a brief description of the contract or a brief recital of the facts giving rise to the obligation of the City imposed by law.

The time limit of one hundred (100) days shall not begin to run against a claimant whose claim or demand for money due is because of operation of law until such claimant shall have actual notice of

the existence of such claim.

No suit shall be brought on any claim for money or damages against The City of San Diego until a demand for the same has been presented, as herein provided.

(Amendment voted 3-28-39; effective 4-24-39.)

(Amendment voted 4-19-49; effective 5-20-49.)

(Amendment voted 3-10-53; effective 4-20-53.)

(Amendment voted 4-21-59; effective 5-20-59.)

(Amendment voted 9-17-63; effective 2-11-64.)

(Amendment voted 11-8-77; effective 1-20-78.)

SECTION 111. AUDIT OF ACCOUNTS OF OFFICERS.

Each year the Council shall provide that an audit shall be made of all accounts and books of all the Departments of the City. Such audit shall be made by independent auditors who are in no way connected with the City. Upon the death, resignation or removal of any officer of the City, the Auditor and Comptroller shall cause an audit and investigation of the accounts of such officer to be made and shall report to the Manager and the Council. Either the Council or the Manager may at any time provide for an independent examination or audit of the accounts of any or all officers or Departments of the City government. In case of death, resignation or removal of the Auditor and Comptroller, the Manager shall cause an audit to be made of his accounts. If, as a result of any such audit, an officer be found indebted to the City, the Auditor and Comptroller, or other person making such audit, shall immediately give notice thereof to the Council, the Manager and the City Attorney and the latter shall forthwith proceed to collect such indebtedness.

SECTION 112. APPRAISAL OF CITY ASSETS.

The Auditor and Comptroller shall show in his records the cost or value of all real estate, buildings, structures, furniture and fixtures, equipment and property of any kind owned by the City, and may require every officer or Commission to assist him in procuring the data required therefor. Proper depreciation shall be made of all property of any kind which is used by the City for utility purposes. A proper balance sheet under classified heads shall be presented to the Manager for inclusion in the annual budget and shall be published in the annual report of the Auditor and Comptroller. This balance sheet shall show all convertible and other assets and all liabilities of the City.

(Amendment voted 4-22-41; effective 5-8-41.)

(Amendment voted 11-4-58; effective 2-19-59.)

SECTION 113. OFFICIAL ADVERTISING.

All official advertising of The City of San Diego shall be done by contract. In June of each odd numbered year the Purchasing Agent must publish a notice in a daily newspaper of said City for ten days calling for proposals to do all the advertising of said City.

The bidder must be the responsible publisher of a newspaper in said City having a bona fide daily circulation and which has been regularly published in said City for at least two years immediately preceding his bid. The award of said advertising shall in all cases be made to the lowest responsible bidder. The newspaper to which the award of advertising is made shall be known and designated as the "City Official Newspaper." "Official advertising," within the meaning of this section shall include only such advertising as shall be required to be published by law.

(Amendment voted 4-19-49; effective 5-20-49.)

(Amendment voted 3-10-53; effective 4-20-53.)

(Amendment voted 11-8-77; effective 1-20-78.)

SECTION 114. BUREAU OF INFORMATION AND PUBLICITY.

The Council may establish a bureau of information and publicity under the supervision and control of the Manager, who shall designate some official in his Department or in that of the City Clerk to compile the annual report of the City giving a summary of the Council proceedings and a summary of the operations of the administrative Departments for the previous fiscal years; have charge of the editing, printing and distribution of all municipal records, reports and documents; collect and compile information and statistics concerning all Departments and offices of the City, and other municipalities; and publish as often as necessary a City Bulletin, which shall contain the transactions and proceedings of the Council, the legal advertising of the City and such other information relating to the affairs of the City as shall be determined by ordinance or as the Manager may designate. The City Bulletin shall be published in lieu of the awarding of a contract for publication of official advertising in a newspaper of the City when the Council shall determine that it is to the best advantage of the City. The City Bulletin shall be published, distributed or sold in such manner and on such terms as the Council may determine. No unofficial advertising shall be published in the City Bulletin, nor shall the City Bulletin be used to promote the candidacy of any person, or be used as a medium for any personal controversy.

ARTICLE VIII

CIVIL SERVICE

SECTION 115. CIVIL SERVICE COMMISSION.

This Commission shall have supervision over the selection, promotion and removal of all employees of the City subject to the Civil Service provisions of this Charter.

(Amendment voted 11-6-56; effective 1-10-57.)

(Amendment voted 11-4-69; effective 1-29-70.)

(This language formerly in Section 41. Language formerly in this section moved to Section 41.)

SECTION 116. PERSONNEL DIRECTOR.

The Civil Service Commission shall appoint a Personnel Director who shall serve as Secretary of the Commission. He shall act as Chief Examiner and superintend the examinations, subject to the direction of the Commission. He shall perform such other duties as are prescribed by this Charter, by ordinance, or by the Commission.

SECTION 117. UNCLASSIFIED AND CLASSIFIED SERVICES.

Employment in the City shall be divided into the Unclassified and Classified Service.

(a) The Unclassified Service shall include:

1. All elective City Officers
2. Members of all boards and commissions
3. All department heads and one principal assistant or deputy in each department
4. One assistant to Mayor
5. City Manager, Assistant City Manager, and Assistants to the City Manager
6. City Clerk
7. Budget Officer
8. Purchasing Officer
9. Treasurer
10. All Assistant and Deputy City Attorneys

11. Industrial Coordinator
 12. The Planning Director
 13. A Confidential Secretary to the Mayor, City Council, City Manager, Police Chief, City Attorney
 14. Officers and employees of San Diego Unified School District
 15. Persons employed in positions for expert professional temporary service when such positions are exempted from the Classified Service for a specified period of temporary service by order of the Civil Service Commission
 16. Interns including, but not limited to, Administrative Interns and legal Interns, temporarily employed in regularly established training programs as defined in the job specifications of the City
 17. Managerial employees having significant responsibilities for formulating or administering departmental policies and programs. Each such position shall be exempted from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and the approval of the City Council.
- (b) The Classified Service shall include all positions not specifically included by this section in the Unclassified Service; provided, however, that the incumbents in the positions of the Planning Director and the Principal Assistant to the Planning Director on January 1, 1963 shall remain in the Classified Service until the respective positions are vacated by the incumbents.
- (Amendment voted 3-13-45; effective 4-9-45.)*
(Amendment voted 3-11-47; effective 3-24-47.)
(Amendment voted 4-17-51; effective 5-3-51.)
(Amendment voted 4-21-53; effective 5-29-53.)
(Amendment voted 6-8-54; effective 1-10-55.)
(Amendment voted 11-6-56; effective 1-10-57.)
(Amendment voted 4-16-57; effective 5-15-57.)
(Amendment voted 4-21-59; effective 5-20-59.)
(Amendment voted 6-7-60; effective 1-9-61.)
(Amendment voted 9-17-63; effective 2-11-64.)
(Amendment voted 11-6-79; effective 12-17-79.)

SECTION 118. RULES.

The Civil Service Commission shall recommend to the City Council all rules and amendments thereto for the government, supervision and control of the classified service. No rule or amendment thereto shall become effective until it shall have been

adopted by ordinance after a public hearing thereon, with notice of such hearing first given by publication of such rule or amendment thereto in full once in the official newspaper of the City at least ten (10) days prior to said hearing and by posting of such rule or amendment thereto in full in three public places at least ten (10) days prior to the said hearing thereon. Following such public hearing the City Council may adopt the rule or amendment as recommended by the Civil Service Commission, may amend the same, or may reject the said recommendation. Any rule or amendment thereto adopted by ordinance shall have the force and effect of law.

Pending the adoption by ordinance of Civil Service rules as hereinabove provided, the present Civil Service rules shall remain in full force and effect for a period not to exceed ninety (90) days from the effective date of this section.

*(Amendment voted 4-22-41; effective 5-8-41.)
(Amendment voted 11-8-49; effective 12-20-49.)*

SECTION 119. APPLICATION REGISTER.

(Repeal voted 9-21-65; effective 2-10-66.)

SECTION 120. LIMITATIONS AND CREDITS.

No question in any test shall relate to race, or to political or religious opinions, affiliations or service, and no appointment, transfer, layoff, promotion, reduction, suspension or removal shall be affected or influenced by race or such opinions, affiliations or service. In all original examinations the Civil Service Commission shall in addition to all other credits, give a credit of five per cent of the total credits specified for such examinations to all those who have served in the United States Armed Forces during any period of time in which a Federal act of conscription was in effect and who have been honorably discharged from active service, provided that this credit is granted to each applicant only upon the first employment after discharge from service, and is not granted to applicants retired from the service on full pensions. The spouse of any veteran who, while in such service, was physically or mentally incapacitated so as to prevent employment in any remunerative occupation, and also the surviving spouse of any veteran killed or who died while in such service, shall receive a credit of five per cent upon the first employment after such veteran's discharge or death.

*(Amendment voted 11-8-49; effective 12-20-49.)
(Amendment voted 9-20-77; effective 11-18-77.)*

SECTION 121. ELIGIBLE LISTS.

The list of applicants eligible to appointment as

determined by the Rules of the Civil Service shall be known as the register of eligibles and shall be open to public inspection. The names of such eligibles shall be arranged in their respective lists in the order of their standing as determined by said rules. The name of no person shall remain on the register of eligibles for more than two (2) years without a new application and, if Civil Service Rules so require, a new test.

(Amendment voted 11-8-49; effective 12-20-49.)

SECTION 122. APPOINTMENTS.

When any position in the Classified Service is to be filled, the appointing authority shall notify the Personnel Director, who shall promptly certify to such authority the names and addresses of the eligibles on the list for the class or grade to which the position belongs. The number of eligibles certified shall be determined by the Civil Service Commission and published in its Rules. The appointing authority shall appoint to such position one of the persons whose names are so certified. When no eligible list for the position exists, or when the eligible list has become exhausted, and until a new list can be created, a name may be certified from the eligible list most nearly appropriate to the position to be filled.

(Amendment voted 9-21-65; effective 2-10-66.)

SECTION 123. LIMITATIONS ON APPOINTMENTS AND TRANSFERS.

No person shall be appointed or employed in the classified service of the City under any title not appropriate to the duties to be performed, and no person shall be transferred to, or be assigned to perform any duties of, a position subject to competitive test except with the approval of the Personnel Director.

SECTION 124. PROMOTIONS.

Whenever practicable vacancies in the classified service shall be filled by promotion, and the Civil Service rules shall indicate the lines of promotion, from each lower to higher grade wherever experience derived in the lower grade tends to qualify for the higher. Any advancement in rank shall constitute promotion. Lists from which promotions are to be made shall be created as provided in the Civil Service rules and the appointment of eligibles therefrom shall be made in the same manner as the original appointments, except as otherwise provided for in this Charter.

SECTION 125. SERVICE REGISTER.

There shall be prepared by the Personnel Director and maintained in the office of the Civil Service Commission a list of all persons in the service of the City showing in connection with each name the position held, the salary or wages paid, the date and character of selection or appointment, every subsequent change of status, and whether in the classified or unclassified service. Such list shall be known as the Service Register, and every appointing officer or authority shall promptly transmit to the Civil Service Commission all information requested for the establishment and maintenance of such register.

In the case of elective officers, such information shall be furnished by the City Clerk.

SECTION 126. CERTIFICATION OF PAY-ROLLS.

The Treasurer shall not pay, nor shall the Auditor and Comptroller issue a warrant for the payment of, any salary or compensation to any person holding, or claiming to hold, a position in the classified or unclassified service unless the payroll or account of such salary or compensation shall bear the certificate of the Personnel Director that the persons named therein have been elected, appointed or employed and are performing service in accordance with the provisions of this Charter and the rules established thereunder, that their names appear upon the service register for the time for which such salary or compensation is claimed and that the salary or compensation is at the rate indicated on such register. If the Auditor and Comptroller shall wilfully or negligently approve any payment or issue any warrant in violation of this section he and the sureties on his bond shall be liable to the City for the amount thereof and action may be brought therefor by the City or any taxpayer for the use of the City without making previous request to the City to sue.

SECTION 127. STANDARDS OF EFFICIENCY.

The Personnel Director shall fix standards of efficiency and recommend measures for co-ordinating the work of the various Departments and for increasing individual, group, and departmental efficiency. It shall be the duty of the Personnel Director to fix a minimum standard of conduct and efficiency for each grade in the service, and whenever it shall appear from the reports of efficiency made to the Personnel Director for a period of three months that the conduct and efficiency of any officer or

employee has fallen below such minimum that fact shall be reported to the authority responsible for the appointment of such officer or employee.

SECTION 128. INVESTIGATIONS.

The City Council, the Civil Service Commission, the City Manager, the Personnel Director or any persons designated by any of them, may make investigations concerning the facts in respect to the operation and enforcement of the Civil Service provisions of this Charter and of the rules established thereunder, and concerning the condition of the Civil Service of the City or any branch thereof. Written charges of misconduct or inefficiency against any officer or employee in the classified service may be filed with the Personnel Director by any person. The Commission shall investigate any such charges, or cause them to be investigated, and report the findings of the investigation to the authority responsible for the appointment of the officer or employee against whom the charges have been made. Any person or persons, making an investigation authorized or required by this Section, shall have power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigation and to administer oaths to such witnesses. Provided, however, that in the event of more than one investigation concerning the same person or the same subject matter or matters closely allied thereto, then and in that event but one hearing shall be had and the entire matter shall be disposed of in the one hearing.

SECTION 129. REMOVALS, SUSPENSION AND LAYOFFS.

Any officer or employee of the City in the classified service may be removed from office or employment for cause by the appointing authority. Written notice of removal given to any officer or employee, or written notice left at or mailed to his or her usual place of residence, shall be sufficient to put any such removal into effect. The person so notified may, within five days after such notice, demand a written statement of the reasons therefor and the right to be heard before the Civil Service Commission. Upon such demand the appointing authority ordering the removal shall supply the person notified thereof and the Civil Service Commission with a written statement of the reasons therefor, and the Commission shall fix a time and place for a public hearing. Following the public hearing, and such investigation as the Civil Service Commission may see fit to make, the Commission shall report its findings and recommendations to the authority responsible for the removal as specified in the notice. Thereupon

the authority making the removal shall make such final disposition of the matter as may be determined by the Civil Service Commission. The decision of the Civil Service Commission in any such case shall be final. A copy of the written statement of reasons given for any removal, and a copy of any written reply thereto by the officer or employee involved, together with a copy of the decision of the Civil Service Commission shall be filed as a public record in the office of the Civil Service Commission.

Any officer or employee of the City in the classified service may be suspended from office or employment for cause or for investigation of misconduct by the appointing authority. Written notice of suspension given to any officer or employee, or written notice left at or mailed to his or her place of residence, shall be sufficient to put any such suspension into effect. The person so notified may, within five days after such notice, demand a written statement of the reasons therefor and a right to appeal said suspension for cause. Upon such demand the officer making the suspension shall supply the person notified thereof and the Civil Service Commission with a written statement of the reasons therefor. The appellant shall be accorded all rights and privileges pursuant to law. The Civil Service Commission shall by rules or regulations, establish procedures for conducting hearings and/or investigations, and reporting findings and recommendations to the appointing authority. All findings and recommendations in any such case shall be final.

The Civil Service Commission shall promulgate rules and regulations necessary to govern layoffs for lack of funds, lack of work, or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in any office or department of the City of San Diego.

(Amendment voted 11-4-75; effective 12-1-75.)

(Amendment voted 6-8-76; effective 7-22-76.)

(Amendment voted 6-3-80; effective 7-16-80.)

SECTION 129.1. REMOVAL OF STRIKING EMPLOYEES.

No employee of The City of San Diego employed under the civil service provisions of this Charter shall instigate, participate in, afford leadership to a strike against The City of San Diego, or engage in any form of concerted action to withhold service from said City. In the event of any such strike or concerted action against the City, it shall be the duty of the City Manager or other appointing authority to ascertain the identity of any employee of the City under his jurisdiction who is in violation of the provisions of this section and to initiate dismissal proceedings against such employee in accordance with the applicable provisions of the Charter. Any citizen of

the City may file written charges against an employee in violation of the provisions of this section. The appropriate appointing authority shall, upon receipt of such written charges, investigate without delay any such written charge, and forthwith inform said citizen of the findings and action, or proposed action, to be taken thereon.

Appointing authorities shall cause timely hearings to be held for any employees charged hereunder. If the City Manager or other appointing authority, after a hearing, determines that the charges are supported by the evidence submitted, and that the employee willfully engaged in the strike or action, said appointing authority shall dismiss the employee involved, and said person shall not be reinstated or returned to The City of San Diego employment except as a new employee who is employed in accordance with the regular employment practices of the City in effect at that time for the particular position of employment.

No officer, board or commissioner of the City elected or appointed, shall have the power to grant amnesty to any person charged with a violation of any of the provisions of this section.

Every employee of The City of San Diego employed under the civil service provisions of this Charter on the effective date of this section, and each person employed pursuant to the civil service provisions of this Charter on or after the effective date of this section, shall be furnished a copy and apprised of the provisions of this section and shall make under oath and file in the office of the Civil Service Commission the following declaration:

"I hereby acknowledge receipt of a copy of the provisions of Section 129.1 of the Charter of The City of San Diego and hereby declare that during the term of my employment with said City I shall neither instigate, participate in or afford leadership to a strike against said City or engage in any concerted action to withhold my services from the city."

In the event of any strike or concerted action to withhold service from The City of San Diego by an employee organization, or employees represented thereby, the City Council is hereby prohibited from granting any improvement in wages, hours or working conditions beyond those in effect or last offered to the striking organization or employees represented thereby by the City prior to the commencement of such strike or concerted activity, and is prohibited from considering the granting of any such improvement beyond that which may have been last offered by the City prior to the strike or concerted activity until the commencement of meet and confer negotiations in the next subsequent calendar year at the time regularly scheduled for commencement under adopted City Council policy

governing such negotiations.

Notwithstanding any other provision of this Charter, a dismissal imposed pursuant to this section shall not be appealable to the Civil Service Commission.

(A 1st edition voted 6-8-76; effective 7-22-76.)

SECTION 130. COMPENSATION ESTABLISHED.

The Council shall by ordinance, prior to the beginning of each fiscal year, establish a schedule of compensation for officers and employees in the Classified Service, which shall establish a minimum and maximum for any grade and provide uniform compensation for like service. It shall be the duty of the Civil Service Commission to prepare and furnish to the Council, prior to the adoption of said ordinance, a report identifying classifications of employees in the Classified Service which merit special salary consideration because of recruitment or retention problems, changes in duties or responsibilities, or other special factors the Commission deems appropriate. An increase in compensation, within the limits provided for any grade, may be granted at any time by the City Manager or other appointing authority upon the basis of efficiency and seniority record, after having first received the approval of the Civil Service Commission therefor.

(Amendment voted 4-22-41; effective 5-8-41.)

(Amendment voted 11-8-77; effective 1-20-78.)

SECTION 131. FALSE STATEMENT BY APPLICANT.

Any applicant for any office or employment in the classified service who shall knowingly make any false statement deemed material to eligibility for the position sought in connection with any test shall thereby forfeit his right to be entered upon the eligible register, and in case he has been appointed to an office or employment he shall forfeit it and may not be entitled for a period up to three years thereafter, within the discretion of and until notified by the Civil Service Commission, to take any Civil Service test or be eligible for appointment to any office or employment in the service of the City.

(Amendment voted 9-20-77; effective 11-18-77.)

SECTION 132. GIFTS OR PAYMENTS BY APPLICANTS FORBIDDEN.

No applicant for Civil Service test or for appointment to the classified service shall either directly or

indirectly, give, render or pay or promise to give, render or pay any money, service or other valuable thing to any person for or on account of, or in connection with, his test, appointment, or proposed appointment, nor shall he ask for or receive any recommendation or assistance from any person in the service of the City other than a statement regarding any previous service to the City as a subordinate under such officer or employee.

SECTION 133. FRAUD ON CIVIL SERVICE PROVISIONS.

No person shall wilfully or corruptly make any false statement, certificate, mark, grading or report in regard to any test or any appointment held or made under the Civil Service provisions of this Charter, or in any manner commit or attempt to commit any fraud in connection with such provisions or said Civil Service rules.

SECTION 134. POLITICAL INFLUENCE PROHIBITED.

No person shall use or promise to use his influence or official authority to secure any appointment or prospective appointment, to any position in the service of the City as a reward or return for personal or partisan political service.

(Amendment voted 11-6-79; effective 12-17-79.)

SECTION 135. CERTAIN POLITICAL PRACTICES FORBIDDEN.

No person about to be appointed to any position in the service of the City shall sign or execute a resignation, dated or undated, in advance of such appointment. No person in the service of the City shall discharge, suspend, lay-off, reduce in grade or in any manner change the official rank or compensation of any person in such service, or promise or threaten to do so, for withholding or neglecting to make any contribution of money or service or any valuable thing for any political purpose. No person in the administrative service of the City shall use his official authority to influence or coerce the political action of any person or body, or to interfere with any nomination or election to public office.

SECTION 136. VIOLATIONS AND PENALTIES.

It shall be the duty of the Personnel Director to supervise the execution of the foregoing Civil Service provisions of this Charter and of the rules made thereunder, and it shall be the duty of all persons in

the service of the City to comply with such rules and to aid in their enforcement. Any person who, by himself or with others, wilfully or corruptly deceives or obstructs any person in respect to his right to take part in any test for admission to the (un)classified service of the City; or wilfully and corruptly marks, grades or reports upon the test or proper standing of any person tested for appointment in the classified service, or aids in so doing; or wilfully or corruptly makes any false representation as to the results of such tests concerning persons so tested; or furnishes special or secret information for the purpose of either improving or injuring the prospects or chances of a person tested or to be tested, or to be appointed, employed, or promoted; or impersonates any person, or permits or aids in any impersonation in connection with any test, application, registration or appointment, or request to be tested or registered; or who makes known or assists in making known to any applicant for test, in advance thereof, any question to be asked on such test; or wilfully or through culpable negligence violates any of the Civil Service provisions of the Charter, or any of the rules made in pursuance thereof, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment for a term not exceeding six months. If any such person be an applicant for competitive test he shall be excluded therefrom; if he be an eligible his name shall be removed from the register of eligibles; and if he be an officer or employee of the City he shall immediately forfeit his office or employment.

SECTION 137. POWER OF TAXPAYERS TO ENFORCE RULES.

Any taxpayer in the City may maintain an action to recover for the City any sum of money paid in violation of the Civil Service provisions, or to enjoin the Personnel Director from attaching his certificate to a payroll on account for services rendered in violation of this Article or the rules made thereunder; and the rules made under the foregoing provisions shall for this and all other purposes have the force of law.

SECTION 138. CERTAIN CANDIDATES FOR ELECTIVE OFFICE AND APPOINTMENTS PROHIBITED.

No person holding an elective office of the City shall, during the term for which elected, be appointed to any office or position in the service of the City except as otherwise provided by this Charter.

SECTION 139. FURTHER POWERS.

The City Council, whenever requested by the Commission, may by ordinance confer upon the Commission such other or further rights, duties and privileges as may be necessary adequately to enforce and carry out the principles of Civil Service not in conflict with this Charter.

SECTION 140. PRESENT EMPLOYEES RETAINED.

(Repeal voted 9-21-65; effective 2-10-66.)

SECTION 140a. STATUS OF PRESENT EMPLOYEES.

(Addition voted 11-8-49; effective 12-20-49.)

(Repeal voted 9-21-65; effective 2-10-66.)

ARTICLE IX

THE RETIREMENT OF EMPLOYEES

SECTION 141. CITY EMPLOYEES' RETIREMENT SYSTEM.

The Council of the City is hereby authorized and empowered by ordinance to establish a retirement system and to provide for death benefits for compensated public officers and employees, other than those policemen and firemen who were members of a pension system on June 30, 1946. No employee shall be retired before he reaches the age of sixty-two years and before he has completed ten years of continuous service, except such employees may be given the option to retire at the age of fifty-five years after twenty years of continuous service with a proportionately reduced allowance. Policemen, firemen and full time lifeguards, however, who have had ten years of continuous service may be retired at the age of fifty-five years, except such policemen, firemen and full time lifeguards may be given the option to retire at the age of fifty years after twenty years of continuous service with a proportionately reduced allowance.

The Council may also in said ordinance provide:

(a) For the retirement with benefits of an employee who has become physically or mentally disabled by reason of bodily injuries received in or by reason of sickness caused by the discharge of duty or as a result thereof to such an extent as to render necessary his retirement from active service.

(b) Death benefits for dependents of employees who are killed in the line of duty or who die as a result of injuries suffered in the performance of duty.

(c) Retirement with benefits of an employee who, after ten years of service, has become disabled to the extent that he is not capable of performing his duties, or who is separated from City service without fault or delinquency on his part.

Retirement shall be compulsory at the age of sixty-five years, except that the Manager, or other department head, for the City's benefit, may thereafter continue an employee who has reached such age limit in the City service from year to year.

*(Amendment voted 3-13-45; effective 4-9-45.)
(Amendment voted 4-19-49; effective 5-20-49.)
(Amendment voted 3-13-51; effective 3-26-51.)
(Amendment voted 6-8-54; effective 1-10-55.)*

SECTION 142. EMPLOYMENT OF ACTUARY.

The Board of Administration hereinafter provided,

shall secure from a competent actuary a report of the cost of establishing a general retirement system for all employees of The City of San Diego. Said actuary shall be one who has had actual experience in the establishing of retirement systems for public employees, and his position shall be considered one requiring expert or technical training within the meaning of subdivision (k) of Section 118 of Article VIII of this Charter.

SECTION 143. CONTRIBUTIONS.

The retirement system herein provided for shall be conducted on the contributory plan, the City contributing jointly with the employees affected thereunder. Employees shall contribute according to the actuarial tables adopted by the Board of Administration for normal retirement allowances, except that employees shall, with the approval of the Board, have the option to contribute more than required for normal allowances, and thereby be entitled to receive the proportionate amount of increased allowances paid for by such additional contributions. The City shall contribute annually an amount substantially equal to that required of the employees for normal retirement allowances, as certified by the actuary, but shall not be required to contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past service of the employees. The mortality, service, experience or other table calculated by the actuary and the valuation determined by him and approved by the board shall be conclusive and final, and any retirement system established under this article shall be based thereon.

*(Amendment voted 3-13-45; effective 4-9-45.)
(Amendment voted 6-8-54; effective 1-10-55.)*

SECTION 143.1 APPROVAL OF AMENDMENTS BY MEMBERS.

No ordinance amending the retirement system which affects the benefits of any employee under such retirement system shall be adopted without the approval of a majority vote of the members of said system.

(Addition voted 6-8-54; effective 1-10-55.)

SECTION 144. BOARD OF ADMINISTRATION.

The system shall be managed by a Board of Administration which is hereby created, consisting of the City Manager, City Auditor and Comptroller, the City Treasurer, three members of the Retirement System to be elected by the active membership, one retired member of the retirement system to be

elected by the retired membership, an officer of a local bank, and three other citizens of the City, the latter four to be appointed by the Council. Such appointees shall serve without compensation. Members of the Board, other than ex-officio, shall serve six years or until their successors are elected and qualified, and shall so classify themselves by lot that one term shall expire each year. The members of the existing Board shall serve out their unexpired terms.

The Board of Administration may establish such rules and regulations as it may deem proper; shall elect one of its members president and appoint a secretary and may appoint such other employees as may be necessary. Such appointments, except the actuary, shall be made under the provisions of Article VIII of this Charter.

The Board of Administration shall be the sole authority and judge under such general ordinances as may be adopted by the Council as to the conditions under which persons may be admitted to benefits of any sort under the retirement system; and shall have exclusive control of the administration and investment of such fund or funds as may be established; and shall be permitted to invest in any bonds or securities which are authorized by General Law for savings banks; and, further, shall be permitted to invest in such additional classes or types of investments as are approved by resolution of the Council of The City of San Diego; provided, however, that individual investments within the classes or types approved by the Council must be approved by independent investment counsel; and, provided, further, the board may place such funds in the hands of the Funds Commission for investment. Provided, however, that the Auditor and Comptroller shall refuse to allow any warrant drawn for payment of a retirement allowance if, in the opinion of the Auditor and Comptroller, such retirement allowance has been granted in contravention of this Article or any ordinances passed under the authority granted herein.

*(Amendment voted 3-13-51; effective 3-26-51.)
(Amendment voted 11-8-60; effective 1-9-61.)
(Amendment voted 11-4-69; effective 1-29-70.)
(Amendment voted 6-4-74; effective 8-13-74.)
(See Article X for additional members.)*

SECTION 145. RETIREMENT FUND.

All moneys contributed by employees of the City or appropriated by the Council or received from any other source under the terms of this Article, shall be placed in a special fund in the City Treasury to be known as the City Employees' Retirement Fund, which said fund is hereby created. Such fund shall be a Trust Fund to be held and used only for the

purpose of carrying out the provisions of this Article. No payments shall be made therefrom except upon the order of the Board of Administration. This fund may be placed by the Board under the Funds Commission for investment; but shall not be merged with other funds of the City.

SECTION 146. ADDITIONAL PROVISIONS.

The Council is hereby fully empowered by a majority vote of the members to enact any and all ordinances necessary, in addition to the ordinance authorized in Section 141 of this Article, to carry into effect the provisions of this Article; and any and all ordinances so enacted shall have equal force and effect with this Article and shall be construed to be a part hereof as fully as if drawn herein.

SECTION 147. FORMER PENSIONERS ENTITLED TO BENEFITS OF THIS ARTICLE.

All persons who were receiving pensions prior to the adoption of this Charter shall be entitled to all the provisions of this Article.

SECTION 148. DECLARATION OF INTENT.

It is the intent and purpose of this Article, where not in conflict with the terms of the present existing City Employees' Retirement System, to continue said system in force and effect as existing at the time this Charter is adopted.

SECTION 148.1. AUTHORITY TO CONSOLIDATE CITY EMPLOYEES' RETIREMENT SYSTEM WITH STATE OF CALIFORNIA RETIREMENT SYSTEM AND/OR U.S. GOVERNMENT SOCIAL SECURITY.

Notwithstanding any of the provisions of this Article IX to the contrary, the Council may, with the approval of a majority of all active members of the City Employees' Retirement System, enter into a contract with the State of California wherein said employees shall be entitled to become members of and enjoy all of the benefits of the State Retirement System for state employees, and/or with the U. S. Government for the conferring of Social Security benefits upon such municipal employees; provided, however, that in any such contract provision shall be made for protecting and safeguarding any and all vested rights of the active and retired members of the City Employees' Retirement System as it exists under this Charter.

(Addition voted 4-21-53; effective 5-29-53.)

ARTICLE X**TRANSFER OF POLICE AND FIRE DEPARTMENT EMPLOYEES INTO THE RETIREMENT SYSTEM****SECTION 1.**

Notwithstanding any language in Article IX of this Charter to the contrary the City Council shall, upon the taking effect of this amendment, by ordinance provide for the transfer into the City Employees' Retirement System of all members of the Police and Fire Departments of The City of San Diego who were regularly employed and members of their respective Pension systems on June 30, 1946; provided, however, that in any such ordinance said Council shall provide as follows:

(1) A minimum retirement allowance of \$200.00 per month when a member has completed the required number of years of service as provided in this Charter, and who at the effective date of the ordinance is receiving a monthly salary of at least \$400.00.

(2) For retirement of members of the Police Department who entered the service of the department on or prior to the 8th day of May, 1941, and who have served for 20 years or more in the aggregate as a member or employee in any rank or capacity in said department, regardless of age, and for the retirement of members of the Police Department who entered the service of the department subsequent to the 8th day of May, 1941, after completion of 25 years of service in the aggregate.

(3) For retirement of members of the Fire Department who entered the service of the Department on or prior to January 1, 1936, and who have served for 20 years or more in the aggregate as a member or employee in any rank or capacity in said department, regardless of age, and for the retirement of members of the Fire Department who entered the service of the department subsequent to the 1st day of January, 1936, after completion of 25 years of service in the aggregate.

(4) Each member of either the Fire or Police Department who is entitled to retire after 20 years of aggregate service with the City shall receive a pension credit of $2 \frac{1}{2}\%$ of his final compensation for each year completed at the effective date of said ordinance, but in no case shall such credit exceed 50% of such final compensation. For each year completed after the effective date of said ordinance the member shall be credited with 1/60th of his final compensation. The pension credits specified above

will not be allowable until after such member shall have reached the age of 50 years. No member of either department who is entitled to retire after 20 years as above and who has had 20 years of service in the aggregate shall receive less than the following: \$200.00 per month as retirement allowance, together with such additional amount per month as will represent the actuarial equivalent of that portion of the contributions of such member contributed after his 20th year of service but before his attainment of age 50.

(5) Members of the Fire and Police Departments who are not eligible for retirement until the completion of 25 years of service in the aggregate shall receive a pension credit of 2% of their final compensation for each year completed at the effective date of said ordinance, provided that such credit shall not exceed 50% of such final compensation, and in addition thereto shall be entitled to credits of 1/60th of their final compensation for each year completed after the effective date of the ordinance. The pension credits specified in this paragraph will not be allowable until after such member shall have reached the age of 55 and has completed 20 years of aggregate service in the department, provided, however, that such member may be permitted to retire at the age of 50 years after 20 years of aggregate service in the department with a reduced allowance, as provided in Article IX and the ordinance passed pursuant thereto.

Except as to those members who are forced to retire because of disability or who die, 'Final Compensation' within the meaning of paragraphs 4 and 5 hereof shall be the highest average compensation received during any five consecutive years of service, limited, however, to the following monthly maximums for members who retire: During the first year after the ordinance is adopted, \$400.00; during the second year, \$500.00; during the third year, \$600.00; during the fourth year, \$700.00; during the fifth year, \$800.00; and after the end of the fifth year there shall be no ceiling considered in determining the amount of the final compensation.

As to those members who are compelled to retire because of disability or who die after the ordinance becomes effective 'Final Compensation' shall be defined as above, but with the following monthly maximums: For death or disability occurring during the first year, after the ordinance is adopted, \$500.00; during the second year, \$600.00; during the third year, \$700.00; during the fourth year, \$800.00; during the fifth year, \$900.00; and after the end of the fifth year no ceiling shall be considered in determining the amount of the final compensation.

(6) No member of either the Fire or Police Departments transferred pursuant to the provisions of this Article of the Charter shall be required to contribute

in excess of 8% of his total salary; and each member so transferred shall be classed as a safety member of a special class and shall be entitled to all of the service credit earned by such member in the Police and Fire Retirement System up to the date of transfer without further contributions from said member because of absences prior thereto while serving in the armed forces of the United States.

(7) The membership of the Board of Administration created by Article IX of the Charter, upon the taking effect of this amendment, shall be increased to the extent of one additional member to represent the Police Department and one additional member to represent the Fire Department, such members to be chosen by the members of the respective departments.

Immediately upon the taking effect of the ordinance making the transfer of members into the City Employees' Retirement System, all of the provisions of Article IX not inconsistent with the hereinabove provided, together with any ordinance passed pursuant thereto, shall be applicable to such transferred members, and the Police and Fire Retirement System heretofore created in 1947 is abolished, and except as prescribed by this amendment all benefits therein authorized are cancelled.

All moneys in the Police and Fire Retirement Fund at the date of the taking effect of the ordinance transferring said members are hereby transferred to the City Employees' Retirement Fund.

Nothing herein contained shall be construed in any way so as to affect the vested rights of members of the Police and Fire Departments who have been heretofore retired by virtue of any retirement or pension system of The City of San Diego.

(Amendment voted 4-19-55; effective 5-5-55.)

Note: Sections 149-192, relative to Police Relief and Pension Fund and Fire Relief and Pension Fund, were amended at various times, combined in 1947, and replaced in 1955 by new Article X.

ARTICLE XI

FIREMAN'S RELIEF AND PENSION FUND

(Repeal voted 4-15-47; effective 5-1-47.)

Note: Sections 149-192, relative to Police Relief and Pension Fund and Fire Relief and Pension Fund, were amended at various times, combined in 1947, and replaced in 1955 by new Article X.

(Repeal voted 9-17-63; effective 2-11-64.)

ARTICLE XII

LABOR ON PUBLIC WORK

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 201. STREET WORK, ETC., SUBJECT TO THIS ARTICLE.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 193. PREVAILING RATE OF WAGES TO BE PAID ON PUBLIC WORK.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 194. TIME AND ONE-HALF PAY.

(Amendment voted 3-13-51; effective 3-26-51.)

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 195. PENALTY FOR FAILURE TO PAY PREVAILING RATE.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 195.1. PUBLICATION OF WAGE SCALE.

(Addition voted 4-19-49; effective 5-20-49.)

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 196. EIGHT HOUR LIMIT ON PUBLIC WORKS.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 197. ALIEN LABOR ON PUBLIC WORKS PROHIBITED.

(Amendment voted 4-20-43; effective 5-4-43.)

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 198. RECORDS TO BE KEPT BY CONTRACTORS.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 199. DUTY TO REPORT VIOLATIONS.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 200. PENALTY FOR VIOLATION.

ARTICLE XIII

CITY POLICE COURT

(Repeal voted 4-22-41; effective 5-8-41.)

*Sections 202-210. Note: Municipal Court established
by vote of the people 4-27-37.*

ARTICLE XIV

MISCELLANEOUS PROVISIONS

SECTION 211. OATH OF OFFICE.

Every officer or member of a Committee, Board or of a Commission of the City shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation as provided by the Constitution or General Law of the State to be filed and kept in the office of the City Clerk.

*(Amendment voted 9-17-63; effective 2-11-64.)
(Amendment voted 11-4-69; effective 1-29-70.)*

SECTION 212. CONTINUANCE OF PRESENT OFFICERS.

All persons holding office at the time the provisions of this Charter or any amendments thereto shall take effect shall continue in office and in the performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. The regular Municipal elections shall be held in the odd numbered years, as in Article II provided. The terms of all elective officers who are in office at the time this Charter or any amendments thereto become effective shall terminate on the first Monday after the first day of December following the holding of such election except as in this Charter otherwise provided.

The powers conferred and the duties imposed upon any Officer, Commission, Board, Committee or Department of the City by the laws of the State and by this Charter or ordinance shall be thereafter exercised and discharged by the Officer, Board, Committee or Department designated by this Charter or by ordinances passed by the Council, unless otherwise provided herein. The members of the Legislative body of The City of San Diego in office at the time the State Legislature ratifies and approves this Charter or any amendments thereto shall take the necessary action and do everything necessary or incidental for the purpose of holding the first election at which municipal officers are elected pursuant to the terms and provisions of this Charter or any amendments thereto.

(Amendment voted 11-6-62; effective 1-21-63.)

SECTION 213. CONTINUING IN FORCE ORDINANCES AND CONTRACTS.

All ordinances not inconsistent with any of the pro-

visions of this Charter or any amendments thereto shall continue in force until amended or repealed, and all contracts of The City of San Diego in force at the time of the adoption of this Charter or any amendments thereto, and not inconsistent with any of the provisions thereof, shall continue in force until completed, amended or rescinded.

*(Amendment voted 4-22-41; effective 5-8-41.)
(Amendment voted 9-17-63; effective 2-11-64.)*

SECTION 214. RESERVATION OF RIGHTS.

The passage of this Act shall not affect any right accruing or accrued, or any suit, prosecution, or other legal proceedings pending at the time when it shall take effect as herein provided, and no penalty or forfeiture previously incurred shall be affected thereby.

SECTION 215. PUBLICITY OF RECORDS.

All books, records and accounts of every office and Department of the City shall be open to inspection by any citizen at all reasonable times and under reasonable regulations established by the Council, except such records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

SECTION 216. COPIES OF RECORDS.

Copies or extracts, duly certified, from said books and records open for inspection, shall be given by the officer having the same in custody to any person demanding the same who shall be charged for such copies or extracts, and for certification, the charge to be fixed by the Council.

SECTION 217. NO PAYMENT FOR OFFICE.

No officer or employee of the City shall give or promise to give to any person any portion of his compensation, or any money or thing of value in consideration of having been, or of being nominated, appointed, voted for or elected to any office or employment. Any officer or employee found guilty by the Council or a court of competent jurisdiction shall thereby forfeit his office or position.

SECTION 218. NO CONTRIBUTIONS FOR EMPLOYMENT.

No officer or employee shall solicit or accept any donation or gratuity in money, or other thing of value, either directly or indirectly, from any subor-

dinate or employee, or from any one under his charge, or from any candidate or applicant for any position as employee or subordinate in any Department of the City. Any officer or employee found guilty by the Council or a court of competent jurisdiction shall thereby forfeit his office or position.

SECTION 219. PUEBLO LANDS.

No sale of Pueblo Lands owned by The City of San Diego which are situated North of the North line of the San Diego River shall ever be valid and binding upon said City unless such sale shall have been first authorized by an ordinance duly passed by the Council and thereafter ratified by the electors of The City of San Diego at any special or general municipal election. The City Manager shall have authority to lease Pueblo Lands, provided that any lease for a term exceeding one year shall not be valid unless first authorized by ordinance of the Council. No lease shall be valid for a period of time exceeding fifteen years.

SECTION 220. EMINENT DOMAIN.

The Council shall have power to acquire by eminent domain proceedings such property as may be needed for public use.

SECTION 221. CITY OFFICES TO BE KEPT OPEN.

(Repeal voted 9-17-63; effective 2-11-64.)

SECTION 222. EFFECT OF INVALIDITY IN PART.

If any clause, sentence, paragraph, section or part of this Charter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 223. AMENDMENT OF CHARTER.

This Charter may be amended in accordance with the provisions of Section Eight, Article Eleven, of the Constitution of the State of California, or any amendment thereof or provision substituted therefor in the State Constitution.

SECTION 224. GENDER.

Wherever in this Charter the masculine gender is used, the same shall be deemed amended to include the feminine gender.

*(Formerly Section 224. REPEAL OF INCONSISTENT ACTS. repeal voted 11-3-64; effective 1-21-65.)
(New Section 224 GENDER addition voted 11-6-73; effective 12-7-73.)*

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